

REQUEST FOR EARLY WARNING MEASURES AND
URGENT ACTION PROCEDURES

TO

The United Nations Committee on the Elimination of Racial Discrimination

IN RELATION TO

The United States of America and Canada

BY

**Center for Constitutional Rights
University Network for Human Rights
Tech Justice Law Project
Cornell Law School International Human Rights Clinic
International Human Rights Clinic, Boston University School of Law
University of Toronto Faculty of Law, International Human Rights Program
University of Chicago Law School, Global Human Rights Clinic
International Justice & Human Rights Clinic, Peter A. Allard School of Law, University
of British Columbia**

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I. INTRODUCTION

1. The undersigned human rights organizations and legal clinics in the United States and Canada call on the Committee on the Elimination of Racial Discrimination (“CERD Committee”) to investigate Canadian and U.S. arms exports to Israel as an urgent and unfolding crisis requiring the Committee’s oversight. The United States and Canada have violated Articles 2, 3, 5(a), 5(b) 5(d)(i-ii, iv, & vii), & 5(e)(i & iii-v) by their continuous exports of military aid and/or weaponry to Israel over the course of Israel’s 15-month full-scale assault on Palestinians in Gaza, as described in detail throughout this filing. The United States and Canada bear direct responsibility for each of these violations even though they may be occurring outside of the territory.
2. Additionally, the United States and Canada have knowingly assisted Israel in violating Articles 2, 3, 4, 5(a), 5(b), 5(d)(i-ii, iv, & vii), & 5(e)(i & iii-v) through their exports and/or provision of aid. Neither country can claim ignorance of how their aid and weaponry would be used, given Israeli officials’ statements demonstrating genocidal intent as early as October 7, 2023, and certainly since being placed on notice in January 2024 by both the International Court of Justice—which recognized that claims of violations of the Genocide Convention against Palestinians in Gaza are “plausible”—and by a U.S. federal district court, which came to the same conclusion while “implor[ing]” the three highest-ranked U.S. officials to “examine the results of their unflagging support of the military siege against the Palestinians in Gaza.”¹ Finally, the United States and Canada bear indirect responsibility for each of Israel’s violations that the United States and Canada assisted as a result of their third state responsibility to not assist in violations of the International Convention on the Elimination of All Forms of Racial Discrimination (“the Convention” or “ICERD”).²
3. The violations described in this submission pose an ongoing and serious threat to the most fundamental rights of Palestinians living in Gaza and the other Occupied Territories. Although a ceasefire agreement remains in effect as of the date of this filing, it remains precarious. On February 10, 2025, U.S. President Donald Trump stated that the ceasefire

¹ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip, (S. Afr. v. Isr.), Order, 2024 I.C.J., ¶ 54 (Jan. 26, 2024) (“ICJ January 2024 Provisional Measures”); Defense for Children International-Palestine et al., v. Biden, et al, 714 F. Supp. 3d. 1160, 1167 (N.D. Cal. 2024). *Id.* at 1163 (finding “[b]oth the uncontroverted testimony of the Plaintiffs and the expert opinion proffered at the hearing on these motions as well as statements made by various officers of the Israeli government indicate that the ongoing military siege in Gaza is intended to eradicate a whole people and therefore plausibly falls within the international prohibition against genocide.).

² International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195, 212 [hereinafter ICERD].

would be cancelled and “all hell would break loose” if Hamas did not immediately release all Israeli hostages.³ At the same time, he has threatened to occupy Gaza, stating repeatedly his intent to remove the Palestinian population and telling King Abdullah of Jordan, “we’re going to take it.”⁴

4. We ask this Commission to find that Canada and the United States have violated their obligations under the ICERD, to condemn the United States’ threats to occupy Palestinians’ land and forcibly transfer the population, and to call for a halt to the export of military weaponry to Israel.

a. Israel is Killing, Starving, and Forcibly Displacing Palestinians in Gaza, Facilitated by the U.S. and Canadian Governments

5. On October 7, 2023, Hamas and other Palestinian armed groups carried out attacks in southern Israel. Approximately 1,100 people, including 295 military personnel, were killed and some 240 people taken hostage and captive.⁵ Israel subsequently launched a devastating large-scale military operation against Gaza which even former U.S. President Biden rebuked as “indiscriminate” and “over the top.”⁶ This massive attack, by land, air, and sea, utilized U.S.- and Canadian-made arms to destroy civilian infrastructure, forcibly displace most of the population in Gaza, and kill an overwhelming number of Palestinians.⁷ Israel’s attack on Gaza—which was accompanied by dehumanizing and racist rhetoric referring to Palestinians as “human animals”⁸—violates international humanitarian law,

³ Alexander Smith, *Trump Threatens “All Hell Is Going to Break Out” if Hamas Delays Hostage Releases*, NBC NEWS (Feb. 11, 2025), <https://www.nbcnews.com/news/world/trump-hamas-israel-gaza-ceasefire-all-hell-break-out-un-gutteres-rcna191620>.

⁴ Vivian Yee & Alissa J. Rubin, *In Trump’s Cross Hairs over Taking Gazans, Egypt and Jordan Try Diversion*, N.Y. TIMES (Feb. 12, 2025), <https://www.nytimes.com/2025/02/12/world/middleeast/trump-gaza-egypt-jordan.html>.

⁵ ICJ January 2024 Provisional Measures, ¶ 13. Reportedly, some Israeli civilians were killed by fire from Israeli forces in the course of fighting. See U.N. Off. of High Comm’r for Hum. Rts. (OHCHR), *Update Report: Six-Month Update Report on the Human Rights Situation in Gaza: 1 November 2023 to 30 April 2024*, OHCHR (Nov. 8, 2024), <https://www.ohchr.org/sites/default/files/documents/countries/opt/20241106-Gaza-Update-Report-OPT.pdf>.

⁶ Kevin Liptak, *Biden Call’s Israel’s response in Gaza over the top*, CNN (Feb. 8, 2024), <https://www.cnn.com/2024/02/08/politics/biden-calls-israels-response-in-gaza-over-the-top/index.html>; Coleen Long & Aamer Madhani, *Biden Takes a Tougher Stance on Israel’s ‘Indiscriminate Bombing’ of Gaza*, ASSOCIATED PRESS (Dec. 12, 2023), <https://apnews.com/article/biden-israel-hamas-oct-7-44c4229d4c1270d9cfa484b664a22071>.

⁷ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip, (S. Afr. v. Isr.), Order, 2024 I.C.J., ¶ 13 (Jan. 2024).

⁸ Emanuel Fabian, *Defense minister announces ‘complete siege’ of Gaza: No power, food or fuel*, THE TIMES OF ISRAEL (Oct. 9, 2023), https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/?trk=public_post_comment-text (quoting Israeli Defense Minister Yoav Gallant saying “I have ordered a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel, everything is closed” and “We are fighting human animals and we are acting accordingly.”); *Netanyahu: We will target Hamas everywhere it operates; Gazans should ‘get out now,’* THE TIMES OF ISRAEL (Oct. 7, 2023), https://www.timesofisrael.com/liveblog_entry/netanyahu-we-will-target-hamas-everywhere-it-operates-gazans-should-get-out-now/ (quoting Prime Minister Netanyahu as ordering more than two million Palestinians in Gaza to “get out now,” threatening that Israel “will operate everywhere and with full force”).

international law, and the human rights of Palestinians. The United States (“U.S.”) and Canada have facilitated these violations by providing aid and weaponry to support the Israeli attack.

6. On January 15, 2025, Israel and Hamas reached a tentative ceasefire agreement, which was approved by Israel’s Security Cabinet on January 17, 2025. Although this deal includes a 42-day ceasefire in Gaza, it remains unclear whether and for how long it will provide a respite from the hostilities, as a durable and lasting resolution to the conflict has yet to be reached.⁹ Further, the same Israeli state apparatus that perpetrated the atrocity crimes that took place over the previous 15 months – including a top leadership that is wanted by the International Criminal Court for war crimes and crimes against humanity – remains firmly in place. Meanwhile, U.S. President Trump has proposed that the United States occupy and “redevelop” Gaza into “the Riviera of the Middle East,”¹⁰ to be accompanied by the forcible transfer of the Palestinian population in Gaza from their homeland—an act that would amount to a crime against humanity in violation of international law. Prime Minister Netanyahu and other leading Israeli politicians have welcomed President Trump’s proposal, which came with a pledge of “one billion dollars in military assistance to Israel,” which follows the recently announced \$7 billion-plus arms sale to Israel.¹¹ The United States’ threat of direct support for atrocity crimes that would constitute ethnic cleansing is irrefutable evidence that, notwithstanding the ceasefire, Palestinians living in Gaza face continued discrimination, injury, displacement, and death.
7. The ongoing violence against Palestinians in Gaza must be understood within a context of 75 years of Israeli subjugation of Palestinians and occupation and colonization of their territory. Multiple human rights organizations have documented serious human rights violations in Gaza over the past 15 years. For example, Human Rights Watch reported that the 15-year lockdown of the territory beginning in 2007 effectively created “an open-air prison” for more than 2 million Palestinians.¹² The border closures prevented the free

⁹ James Hilder & Jerome Socolovsky, *Israel’s security cabinet approves Gaza ceasefire and hostage deal*, NPR (Jan. 17, 2025), <https://www.npr.org/2025/01/17/nx-s1-5262972/israel-hamas-war-ceasefire-cabinet-vote>.

¹⁰ Aamer Madhani, Tia Goldenberg & Zeke Miller, *Trump Won’t Rule out Deploying US Troops to Support Rebuilding Gaza, Sees ‘Long-term’ US Ownership*, AP NEWS (Feb. 5, 2025), <https://apnews.com/article/trump-netanyahu-washington-ceasefire-1c8deec4dd46177e08e07d669d595ed3>.

¹¹ *Full Text of Trump and Netanyahu’s Explosive News Conference*, MIDDLE EAST EYE (Feb. 5, 2025), <https://www.middleeasteye.net/news/full-text-trump-and-netanyahus-explosive-news-conference>; Lolita Baldor, *State Department lays out plans for \$7 billion-plus arms sale to Israel as Netanyahu visits DC*, AP NEWS (Feb. 7, 2025), <https://apnews.com/article/israel-weapons-us-sale-netanyahu-trump-gaza-c53a61873314be2336c3733b97d89ff3>; Lolita Baldor, *State Department lays out plans for \$7 billion-plus arms sale to Israel as Netanyahu visits DC*, AP NEWS (Feb. 7, 2025), <https://apnews.com/article/israel-weapons-us-sale-netanyahu-trump-gaza-c53a61873314be2336c3733b97d89ff3>.

¹² *Gaza: Israel’s ‘Open-Air Prison’ at 15: Israel, Egypt Movement Restrictions Wreak Havoc on Palestinian Lives*, HUMAN RIGHTS WATCH (June 14, 2022), <https://www.hrw.org/news/2022/06/14/gaza-israels-open-air-prison-15>

movement of the population and severely restricted their access to goods, resulting in the violations of various guaranteed right and freedoms.

8. Since October 7, Israel has invaded Gaza with nearly 40,000 combat troops and dropped at least 70,000 tons of bombs on the territory—exceeding the combined weight of bombs dropped on London, Dresden, and Hamburg during World War II.¹³ The death toll is catastrophic. As of February 4, 2025, Israeli forces have killed at least 47,500 Palestinians—including an estimated 13,319 children—and injured more than 111,000 people.¹⁴ Nearly two million people (about 90% of the population) have been displaced.¹⁵ However, the actual death toll is believed to be significantly higher.¹⁶ In February 2025, a multinational team of medical experts estimated that 64,260 Palestinians had been killed “due to traumatic injury”¹⁷ from October 7, 2023 to June 30, 2024. This estimate is both a 40% increase from the data from the Ministry of Health in Gaza and an underestimate of conflict-related deaths because it explicitly excludes “non-trauma related death resulting from health service disruption, food insecurity, and inadequate water and sanitation.”¹⁸ Medical care is inaccessible for the vast majority of Palestinians in Gaza, with the World Health Organization (“WHO”) reporting that, in 300 days, 32 out of 36 hospitals were severely damaged.¹⁹
9. Humanitarian aid cannot come to the rescue. For the last 17 years, Israel has imposed an illegal land, sea and air blockade on Gaza that has restricted the flow of medical supplies and other goods into the occupied territory. Since October 7, 2023, the blockade has

¹³ Robert A. Pape, *Hamas Is Winning*, FOREIGN AFFAIRS (June 21, 2024), <https://www.foreignaffairs.com/israel/middle-east-robort-pape>.

¹⁴ U.N. Off. for Coordination of Humanitarian Affs. (OCHA), *Reported Impact Snapshot: Gaza Strip* (Feb. 4, 2025), <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-4-february-2025>.

¹⁵ *Reported impact snapshot, Gaza Strip*, OCHA (Nov. 5, 2024), <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-5-november-2024>.

¹⁶ It is widely accepted that the death count in Gaza is underreported, by as much as 40%, with many persons missing and believed to be buried under the rubble. *See, e.g., Gaza death toll has been significantly underreported, study finds*, CNN (Jan. 9, 2025), <https://www.cnn.com/2025/01/09/middleeast/gaza-death-toll-underreported-study-intl/index.html>; *see also* Zeina Jamaluddine, Hanan Abukamail, Sarah Aly, Oona M R Campbell, and Francesco Checchi, *Traumatic injury mortality in the Gaza Strip from Oct 7, 2023, to June 30, 2024: a capture–recapture analysis*, THE LANCET (Feb. 8, 2025), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)02678-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)02678-3/fulltext); Rasha Khatib, Martin McFee and Salim Yusuf, *Counting the Dead in Gaza: Difficult but Essential*, 404 THE LANCET (July 20, 2024), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)01169-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)01169-3/fulltext).

¹⁷ Zeina Jamaluddine, Hanan Abukamail, Sarah Aly, Oona M R Campbell, and Francesco Checchi, *Traumatic injury mortality in the Gaza Strip from Oct 7, 2023, to June 30, 2024: a capture–recapture analysis*, THE LANCET (Feb. 8, 2025), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)02678-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)02678-3/fulltext).

¹⁸ *Id.*; *see also* *Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem*, UNRWA (Feb. 7, 2025), <https://www.unrwa.org/resources/reports/unrwa-situation-report-158-situation-gaza-strip-and-west-bank-including-east-jerusalem>.

¹⁹ Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, *Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, Francesca Albanese - *Genocide as colonial erasure*, U.N. Doc. A/79/384, at ¶ 18 (Oct. 1, 2024).

virtually shut down access of Palestinians in Gaza to necessary food, water, and medical care. The blockade has generated famine-like conditions while obstructing, undermining, and even deliberately targeting the humanitarian response.²⁰

10. Numerous international law bodies and human rights organizations have expressed concern regarding the ongoing assault on and conflict in Gaza. The International Court of Justice found that it is “plausible” that Israel has carried out genocidal acts against Palestinians, who are a distinct “national, ethnical, racial or religious group.”²¹ A few days later, a United States District Court echoed the ICJ’s finding, stating that “it is plausible that Israel’s conduct amounts to genocide,” and “implor[ing then-U.S. President Biden, Secretary of State Blinken, and Defense Secretary Austin] to examine the results of their unflagging support of the military siege against the Palestinians in Gaza.”²² In October 2024, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 concluded that the totality of Israeli assaults in the Occupied Palestinian Territory (“OPT”) since October 7, 2023—which includes Gaza and the West Bank, including East Jerusalem—indicated genocidal intent to “liquidat[e] the Palestinian presence in Palestine.”²³ The Human Rights Council has called upon states to “exert their influence to stop violations of international humanitarian law by all parties to the conflict and prevent their further commission, and not to enable such violations.”²⁴ On December 5, 2024, Amnesty International released a report concluding that Israel has committed and is continuing to commit genocide against Palestinians in the occupied Gaza Strip.²⁵

²⁰ See *Siege and Starvation: How Israel Obstructs Aid to Gaza*, REFUGEES INT’L (March 7, 2024), <https://www.refugeesinternational.org/reports-briefs/siege-and-starvation-how-israel-obstructs-aid-to-gaza/>; WORLD FOOD KITCHEN, 7 WCK TEAM MEMBERS KILLED IN GAZA (Apr. 2, 2024), <https://wck.org/news/gaza-team-update>; *Gaza: Israelis Attacking Known Aid Worker Locations*, HUMAN RIGHTS WATCH (May 24, 2024), <https://www.hrw.org/news/2024/05/14/gaza-israelis-attacking-known-aid-worker-locations>.

²¹ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip, (S. Afr. v. Isr.), Order, 2024 I.C.J., ¶¶ 45, 54,78 (Jan. 26, 2024).

²² Def. for Children Int’l-Palestine v. Biden, 714 F. Supp. 3d 1160, 1167 (N.D. Cal. 2024), *aff’d*, 107 F.4th 926 (9th Cir. 2024).

²³ Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, *Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese - Genocide as colonial erasure*, U.N. Doc. A/79/384, at ¶ 1 (Oct. 1, 2024).

²⁴ Rep. of the United Nations High Commissioner for Human Rights to the fifty-fifth session of the Hum. Rts. Council, *Human Rights Situation in the Occupied Palestinian Territory, East Jerusalem, and the Obligation to Ensure Accountability and Justice*, U.N. Doc. A/HRC/55/28, at ¶ 93 (March 4, 2024). The Human Rights Council has also addressed the impact of arm transfers on human rights prior to October 7, 2023. See Human Rights Council Res. 24/25, *Impact of arms transfers on human rights in armed conflicts*, U.N. Doc. A/HRC/RES/24/35 (Oct. 8, 2013); Human Rights Council Res. 32/12, *Impact of arms transfers on human rights*, U.N. Doc. A/HRC/RES/32/12 (July 15, 2016); Human Rights Council Res. 41/20, *Impact of arms transfers on human rights*, U.N. Doc. A/HRC/RES/41/20 (July 22, 2019); Human Rights Council Res. 47/17, *Impact of arms transfers on human rights*, U.N. Doc. A/HRC/RES/47/17 (July 26, 2021); Human Rights Council Res. 53/15, *Impact of arms transfers on human rights*, U.N. Doc. A/HRC/RES/53/15 (July 21, 2023).

²⁵ AMNESTY INT’L, ‘YOU FEEL LIKE YOU ARE SUBHUMAN’: ISRAEL’S GENOCIDE AGAINST PALESTINIANS IN GAZA 35 (Dec. 5, 2024), <https://www.amnesty.org/en/documents/mde15/8668/2024/en/>.

11. UN agencies and experts have warned States, companies, and financial institutions of the risk of complicity in international crimes, including genocide. Specifically, they have called on States “to cease the sale, transfer and diversion of arms, munitions and other military equipment to Israel.”²⁶ Indeed, the International Court of Justice found it “particularly important” to “remind all States of their international obligations relating to the transfer of arms to parties to an armed conflict...that such arms might be used to violate the [Genocide and Geneva] Conventions.”²⁷ In addition, a group of over thirty UN Special Rapporteurs, Independent Experts, and members of UN Working Groups have stated that “arms manufacturers supplying Israel—including BAE Systems, Boeing, Caterpillar, General Dynamics, Lockheed Martin, Northrop Grumman, Oshkosh, Rheinmetall AG, Rolls-Royce Power Systems, RTX, and ThyssenKrupp—should also end transfers, even if they are executed under existing export licenses.”²⁸ The experts stated that “[t]he imperative for an arms embargo on Israel and for investors to take decisive action is more urgent than ever, particularly in light of states' obligations and companies' responsibilities under the Geneva Conventions, the Genocide Convention, the international human rights treaties, and the UN Guiding Principles on Business and Human Rights.”²⁹

b. Request for an Early Warning and Urgent Action Decision Against the United States and Canada

12. The crisis in Gaza has been documented and reported live across news sources all over the world. Israel’s full-scale military assault in Gaza has been described by experts as the “most

²⁶ U.N. Off. of High Comm’r for Hum. Rts. (OHCHR), *Arms exports to Israel must stop immediately: UN experts*, UNITED NATIONS: PRESS RELEASE (Feb. 23, 2024), <https://www.ohchr.org/en/press-releases/2024/02/arms-exports-israel-must-stop-immediately-un-experts>; UNITED NATIONS, *States and companies must end arms transfers to Israel immediately or risk responsibility for human rights violations: UN experts*, UNITED NATIONS: PRESS RELEASE (June 20, 2024), <https://www.ohchr.org/en/press-releases/2024/06/states-and-companies-must-end-arms-transfers-israel-immediately-or-risk> (“UN warning to States and Companies to End Arms Transfers to Israel.”).

²⁷ *Alleged Breaches of Certain International Obligations in Respect of the Occupied Palestinian Territory (Nicar. v. Ger.)*, Order, ¶24 (Apr. 30, 2024), <https://www.icj-cij.org/sites/default/files/case-related/193/193-20240430-ord-01-00-en.pdf>. See also *id.*, Declaration of Judge Cleveland, ¶8, <https://www.icj-cij.org/sites/default/files/case-related/193/193-20240430-ord-01-03-en.pdf> (“In the context of military assistance, the obligations to prevent under Article 1 of ... the Genocide Convention necessarily impose a duty on States parties to be proactive in ascertaining and avoiding ‘the risk that such arms might be used to violate the . . . Conventions’”).

²⁸ UNITED NATIONS, *States and companies must end arms transfers to Israel immediately or risk responsibility for human rights violations: UN experts*, *supra* note 26; The UN OHCHR has analyzed the impact of arms exports and reported to the Human Rights Council. See Human Rights Council, *The impact of arms transfers on human rights*, U.N. Doc. A/HRC/44/29 (June 19, 2020).

²⁹ UNITED NATIONS, *States and companies must end arms transfers to Israel immediately or risk responsibility for human rights violations: UN experts*, UNITED NATIONS: PRESS RELEASE (June 20, 2024), <https://www.ohchr.org/en/press-releases/2024/06/states-and-companies-must-end-arms-transfers-israel-immediately-or-risk>; see Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework United Nations, U.N. Doc. A/HRC/17/31 (Mar. 21, 2011). See, e.g., *id.*, Principles 11-13 & Commentary.

destructive in recent history.”³⁰ Thus, the United States and Canada are well aware of Israel’s violations of international law, often perpetrated with Canada- and US-provided weaponry. News reports of the military assault of Gaza were widely published, including Israeli officials’ statements describing Palestinians as “human animals,”³¹ calling for a second Nakba,³² and the publicly announcing a “complete siege” of Gaza where there would be “no electricity, no food, no fuel.”³³ These statements were immediately met with condemnation by civil society, including statements from the Secretary-General of the United Nations,³⁴ the European Union’s High Representative of Foreign Affairs and Security Policy,³⁵ and the President of the ICRC.³⁶ Specifically, international bodies and experts, including this Committee, warned that such statements constitute dehumanizing hate speech and incitement to genocide,³⁷ which trigger the responsibility of States Parties pursuant to Article 4 of the Convention.

13. Canada and the United States’ untrammelled arms exports to Israel contribute to the humanitarian crisis in the OPT and enable ongoing, grave violations of the CERD and other human rights treaties. We call on the CERD Committee to investigate Canadian and U.S.’ arms exports to Israel as an urgent and unfolding crisis requiring the Committee’s oversight.

14. To hold Canada and the United States accountable, the undersigned present this submission to the CERD Committee and request that it examine these States’ compliance with their obligations under ICERD.³⁸ The CERD Committee urged Israel, the State of Palestine and

³⁰ Julia Frankel, *Israel’s military campaign in Gaza seen as among the most destructive in recent history, experts say*, ASSOCIATED PRESS (Jan. 11 2024), <https://apnews.com/article/israel-gaza-bombs-destruction-death-toll-scope-419488c511f83c85baea22458472a796>.

³¹ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (S. Afr. v. Isr.), Provisional Measures, Order, 2024 I.C.J., ¶ 52 (Jan. 26, 2024).

³² E.g., Joseph Krauss, *In Israel’s call for mass evacuation, Palestinians hear echoes of their original catastrophic exodus*, AP NEWS (Oct. 13, 2023), <https://apnews.com/article/israel-palestinians-gaza-evacuation-history-nakba-a1bec1ee3477573e80b39b4044a48111>.

³³ *Id.*

³⁴ See UNITED NATIONS, *Middle East Crisis: Guterres Appeals for an End to ‘Vicious Cycle of Bloodshed, Hatred and Polarization,’* UN: NEWS (Oct. 9, 2023), <https://news.un.org/en/story/2023/10/1142082>.

³⁵ See *Israel/Gaza: Press remarks by High Representative Josep Borrell after informal meeting of EU Foreign Affairs Ministers*, EEAS (Oct. 10, 2023), <https://www.eeas.europa.eu/eeas/israelgaza-press-remarks-high-representative-josep-borrell-after-informal-meeting-eu-foreign-affairs>.

³⁶ See *Targeting Civilians Leads to Further Spirals of Violence and Hatred*, ICRC (Oct. 11, 2023), <https://blogs.icrc.org/ir/en/2023/10/israel-and-the-occupied-territories-targeting-civilians-leads-to-further-spirals-of-violence-and-hatred/>.

³⁷ E.g., CERD Committee, *Decision 2 on Prevention of Racial Discrimination*, U.N. Doc. CERD/EWU/9942/E (Dec. 21, 2023); United Nations Media Center, Oral statement of the chair of the Special Committee to Investigate Israeli Practices delivered at the 78th session of the General Assembly (Nov. 6, 2023), <https://www.ohchr.org/en/statements-and-speeches/2024/11/oral-statement-chair-special-committee-investigate-israeli>; Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures, Order of the Court, 2024 I.C.J., ¶¶ 50-5 (Jan. 26, 2024).

³⁸ See generally ICERD.

other State parties to institute an immediate and sustained ceasefire in the occupied Gaza Strip under its Early Warning and Urgent Action Procedures in a statement issued on October 27, 2023³⁹ and a decision on December 21, 2023.⁴⁰ Since that time, the situation in Gaza has deteriorated significantly. On December 12, 2024, the CERD Committee issued another urgent and strongly worded decision, which notably called upon “all States” to fully respect their international obligations and particularly those arising from the Convention, the Genocide Convention and article 1 of the four Geneva Conventions, including by “ceasing any military assistance if there is a clear risk that such assistance could be used in violation of international law.”⁴¹ Outside of Israel itself, the United States bears the most responsibility for the situation in Gaza, as it provides Israel with more weaponry than any other country in the world. Additionally, the deep integration of the Canada and U.S. defense industries into what is effectively a single North American military industry,⁴² whereby among other things Canada supplies important parts and components to U.S. weaponry—that is then transferred to Israel—warrants examination of Canada’s compliance under ICERD as well. We therefore ask the CERD Committee to issue an Early Warning and Urgent Action Decision against the United States and Canada calling for a cessation of arms exports, including indirect exports, to Israel.

II. CANADA AND THE U.S. HAVE DEEPLY INTEGRATED DEFENSE INDUSTRIES

15. Canada’s defense industry is deeply integrated with the U.S. dating back to industrial coordination and integration policies established in the 1940s.⁴³ The 1940 Ogdensburg and 1941 Hyde Park Declarations institutionalized Canada-U.S. defense industry partnerships and committed each country to develop coordinated requirement, production, and procurement practices.⁴⁴ “In the 1950s and 1960s, the Defense Production Sharing Arrangements (DPSA) and Defense Development Sharing Arrangements (DDSA) granted Canadian firms preferential access to the U.S. defense industry, including Canadian

³⁹ Committee on the Elimination of Racial Discrimination [hereinafter CERD Committee], *Statement 5 on Israel and the State of Palestine*, U.N. Doc. CERD/SWA/9904/E (Oct. 27, 2023).

⁴⁰ CERD Committee, *Decision 2 on prevention of racial discrimination*, U.N. Doc. CERD/EWU/9942/E (Dec. 21, 2023).

⁴¹ CERD Committee, *Decision 2 on prevention of racial discrimination* (Dec. 12, 2024).

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FEWU%2F10086&Lang=en.

⁴² *History of Canada-U.S. Industrial Cooperation Agreements*, CANADIAN COMMERCIAL CORPORATION, <https://www.ccc.ca/en/about/history-of-canada-u-s-industrial-cooperation-agreements/> (last visited Feb. 2, 2025); see also Edgar D. Alistair, *Growth Pains or Growing Strains?*, 8 CANADIAN FOREIGN POLY J. 1 (2001); Yves Bélanger, et al., *Les mutations de l’industrie de défense : regards croisés sur trois continents* 10 CAHIERS DE L’IRSEM 166 (2012); Y. Bélanger & A.-E. Fleurant, *Intégration continentale et base industrielle de défense : retour sur le dilemme canadien*, in LE CANADA DANS L’ORBITE AMÉRICAINNE: LA MORT DES THÉORIES INTÉGRATIONNISTES? (Y. Bélanger & A. Legault Éds. Sainte-Foy: Presses de l’Université Laval, 2004).

⁴³ Alistair, *Growth Pains or Growing Strains?*, *supra* note 42

⁴⁴ *Id.* at 3.

defense suppliers along with American firms in a single supplier and mobilization base. These agreements remain at the core of Canada-US defense relations, and are identified as having created, in practice, a single integrated North American defense market.⁴⁵

16. Scholars have argued that the military relationship between the U.S. and Canada has developed to such an extent that U.S. military interests have become integral to Canadian military and political culture.⁴⁶ For example, Canada's 1994 White Paper on Defense listed defense cooperation between the U.S. and Canada as one of three main objectives.⁴⁷ In 2004, Canada's then Chief of Defense Staff reported to the Canadian parliament that Canada-U.S. economic and military interests were intertwined.⁴⁸ Later in 2006, the North American Aerospace Defense Command (NORAD)'s Bi-National Planning Group, established in 2002, later advocated for the "melding of [Canadian and US] defense and security functions" in what has been described as an intent to effectively take over Canada's military, security and foreign policy with US operating systems.⁴⁹ Canada-US defense integration is further significant in lending multilateral legitimacy to US overseas military operations.⁵⁰

III. THE UNITED STATES HAS AIDED ISRAEL IN VIOLATING THE CONVENTION BY PROVIDING FINANCIAL SUPPORT AND WEAPONRY TO THE ISRAEL DEFENSE FORCES.

a. The United States Provides Billions of Dollars of Military Aid to Israel Each Year.

17. Israel has been the largest single recipient of U.S. military aid. From the time of its establishment in 1948, to date, the U.S. has provided Israel with over \$158 billion (not adjusted for inflation) worth of military aid for addressing its security threats.⁵¹ To put that in perspective, the Marshall Plan, whose purpose was to aid in the economic recovery of 16 European nations after their devastation in World War II, was \$13.3 billion.⁵²

⁴⁵ *Id.*

⁴⁶ Bruno Charbonneau & Wayne S. Cox, *Global Order, US Hegemony and Military Integration: The Canadian-American Defense Relationship*, 2 INT'L POLITICAL SOCIOLOGY 305 (2008).

⁴⁷ Steven Staples, *Fortress North America: The Drive Towards Military and Security Integration and Its Impact on Canadian Democratic Sovereignty*, in WHOSE CANADA? CONTINENTAL INTEGRATION, FORTRESS AMERICA AND THE CORPORATE AGENDA (Ricardo Grinspun and Yasmine Shamsie eds., McGill-Queens University Press 2007).

⁴⁸ *Id.* at 163.

⁴⁹ *Id.* at 169.

⁵⁰ Stephen Clarkson & Erin Fitzgerald, *A Special Military Relationship? Canada's Role in Constructing US Military Power*, 12 J. MILITARY AND STRATEGIC STUDIES 1 (2009).

⁵¹ JEREMY SHARP, CONG. RSCH. SERV., RL33222 U.S. FOREIGN AID TO ISRAEL 2 (Mar. 1, 2023).

⁵² *Marshall Plan*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/event/Marshall-Plan> (last visited Feb. 17, 2025).

18. Israel is also the leading recipient of U.S. military aid through a State Department-run program known as Foreign Military Financing (FMF).⁵³ This aid is formalized through a ten-year Memorandum of Understanding (MoU) between the two governments which pledges—subject to congressional appropriation—a total of \$38 billion in military assistance to Israel over the course of the arrangement.⁵⁴ While the law requires that the aid be used to purchase U.S. defense equipment, the MoU allows Israel to use some of the funding to purchase weapons of Israeli origin in a process known as offshore procurement.⁵⁵ No other country has been granted this exception.⁵⁶
19. U.S. military aid to Israel has grown astronomically since the attacks of October 7, 2023 – including in the time period after a U.S. federal court warned that Israel is committing a “plausible genocide” against the Palestinian people in Gaza,⁵⁷ and the International Court of Justice has issued multiple Orders for provisional measures because of the plausible risk that genocide is being committed.⁵⁸ In just one year, the U.S. has spent at least an additional \$22.76 billion on military aid to Israel and related U.S. operations in the region (as of September 30, 2024).⁵⁹

b. The United States is the Largest Supplier of Arms to Israel.

⁵³ U.S. DEP’T OF STATE, BUREAU OF POL.-MIL. AFFS., *U.S. Security Cooperation with Israel, Fact Sheet* (Oct. 19, 2023), <https://www.state.gov/u-s-security-cooperation-with-israel/> (explaining how FMF is one of several programs authorized under Title 22 of U.S. Code which enables eligible partner nations to purchase U.S. defense articles using congressionally allocated aid money).

⁵⁴ *See id.* (detailing that \$500 million of the \$3.8 billion annual FMF allocation is exclusively for missile defense systems like the Iron Dome and David’s Sling and FMF accounts for roughly 15% of Israel’s annual defense expenditures).

⁵⁵ *See id.*

⁵⁶ *See id.*; The United States and Israel are in the process of gradually phasing out offshore procurement. As a result, some Israeli companies have opened subsidiaries that are licensed to do business in the U.S. allowing them to both increase business and conduct U.S. financed military aid funded deals.

⁵⁷ *Def. for Children Int’l v. Biden*, No. 23-cv-05829, 4 (N.D. Cal. 2024).

⁵⁸ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures, Order of the Court, 2024 I.C.J., ¶¶ 30, 54, 59, 66, 78-85 (Jan. 26, 2024); *see also* Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures, Order of the Court, 2024 I.C.J., ¶ 51 (Mar. 28, 2024) (affirming Jan. 26 Order and ordering Israel to, inter alia, address “without delay” spread of famine and starvation); Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures, Order of the Court, 2024 I.C.J., ¶¶ 51-2 (May 24, 2024) (affirming Jan. 26 and Mar. 28 Orders and ordering Israel, inter alia, to immediately halt potentially genocidal military operations in the Rafah Governate).

⁵⁹ Linda Bilmes, William Hartung & Stephen Semler, *Costs of War: United States Spending on Israel’s Military Operations and Related U.S. Operations in the Region, October 7, 2023-September 30, 2024*, WATSON CTR. FOR INT’L AND PUBLIC AFFAIRS AT BROWN UNIV. (Oct. 7, 2024), https://watson.brown.edu/costsofwar/files/cow/imce/papers/2023/2024/Costs%20of%20War_US%20Support%20Si nce%20Oct%207%20FINAL%20v2.pdf.

20. Israel is the 15th largest importer of arms in the world.⁶⁰ In addition to being the largest financier of the Israeli military, the U.S. is also by far the principal supplier of arms to Israel, accounting for 69% of Israel's total arms imports.⁶¹ Other major exporters include Germany at 30% and Italy at 0.9%.⁶²
21. The U.S. assures Israel's military superiority in the region through a commitment to uphold Israel's qualitative military edge ("QME").⁶³ QME allows Israel to counter and defeat credible military threats from any individual state, coalition of states, or non-state actor, while sustaining minimal damages or casualties.⁶⁴ In practice, QME has amounted to a guarantee, by every U.S. administration since the Lyndon B. Johnson administration in 1963, that Israel will be the first in the region to access U.S. defense technology.⁶⁵ In addition to first access, in instances in which both Israel and an Arab state operate the same U.S. platform, Israel either received a more advanced version or the ability to customize the U.S. system (to maintain a technological advantage).⁶⁶ Congress codified QME by amending the Arms Export Control Act ("AECA") under the Obama administration to require that any U.S. arms export to any country in the Middle East would not adversely affect Israel's QME.⁶⁷
22. QME has allowed Israel to have the most well-equipped and capable Air Force in the region.⁶⁸ In addition to being the sole Middle Eastern country operating the F-35 (considered to be the most technologically advanced fighter jet ever made), it also operates

⁶⁰ Zain Hussain, *How top arms exporters have responded to the war in Gaza*, STOCKHOLM INT'L PEACE RESEARCH INST. (Oct. 3, 2024), <https://www.sipri.org/commentary/topical-backgrounder/2024/how-top-arms-exporters-have-responded-war-gaza>.

⁶¹ See David Gritten, *Gaza war: Where does Israel get its weapons?*, BBC (Sept. 3, 2024), <https://www.bbc.com/news/world-middle-east-68737412>.

⁶² See Hussain, *supra* note 60.

⁶³ See Andrew Shapiro, Assistant U.S. Sec'y of State Bureau of Pol.-Mil. Affs., *U.S.-Israel Relationship and Current Issues in the Middle East, Address to The Washington Institute for Near East Policy*, OBAMA WHITE HOUSE ARCHIVES (Nov. 17, 2011, 5:27 PM), <https://obamawhitehouse.archives.gov/blog/2011/11/17/ensuring-israels-qualitative-military-edge>.

⁶⁴ See *id.* Under the Arms Export Control Act, the term "qualitative military edge" is applied specifically to Israel and is defined as follows:

[T]he term "qualitative military edge" means the ability to counter and defeat any credible conventional military threat from any individual state or possible coalition of states or from non-state actors, while sustaining minimal damages and casualties, through the use of superior military means, possessed in sufficient quantity, including weapons, command, control, communication, intelligence, surveillance, and reconnaissance capabilities that in their technical characteristics are superior in capability to those of such other individual or possible coalition of states or non-state actors.

22 U.S.C § 2776 (h).

⁶⁵ See JEREMY SHARP, ET AL., CONG. RSCH. SERV., RL46580, ISRAEL'S QUALITATIVE MIL. EDGE AND POSSIBLE U.S. ARMS SALES TO THE U.A.E. (Oct. 26, 2020).

⁶⁶ See *id.* at 10.

⁶⁷ See *id.* at 11-12; 22 U.S.C § 2776 (2008).

⁶⁸ See CRS RL33222 U.S. FOREIGN AID TO ISRAEL, *supra* note 51, at 8.

several older, but formidable, squadrons of U.S. manufactured F-15s and F-16s.⁶⁹ Indeed, a former official of the U.S. State Department has confirmed that every Israeli fighter jet is produced by the United States.⁷⁰

23. Since October 7, 2023, the U.S. government has fast-tracked the delivery to Israel of “thousands of precision-guided munitions, small-diameter bombs, bunker busters, small arms and other lethal aid.”⁷¹ In October of 2023, the State Department reported that Israel’s total Foreign Military Sales (FMS) portfolio consisted of 599 active cases amounting to \$23.8 billion.⁷² From October 2023 to August 2024, Israeli authorities confirmed receiving U.S. shipments in excess of 50,000 tons of armaments and defense articles.⁷³
24. The more than 100 separate deliveries over the last several incorporate a large quantity and variety of weapons and munitions, including air defenses, precision-guided munitions (PGMs), artillery shells, tank rounds, and small arms.⁷⁴ The United States also provided large quantities of Joint Direct Attack Munitions (JDAMs)⁷⁵ and Small Diameter Bombs (SDBs) and further approved a sale of (Smart, Precise Impact, Cost-Effective) SPICE guidance kits to Israel.⁷⁶ While most of the deliveries were not notified to Congress, on August 9, 2024, the Executive notified Congress of a sale of 6,500 JDAMs to Israel.⁷⁷ The United States has also delivered tens of thousands 155mm artillery shells, 3,000 Hellfire missiles, and untold amounts of 30mm ammunition for cannons, and approved a sale of 120mm tank rounds.⁷⁸ Small arms and equipment, including PVS-14 night vision devices

⁶⁹ *Id.*

⁷⁰ Cecilia Vega, *Former State Department Officials Concerned about the US. Role in Israel’s War in Gaza*, 60 MINUTES (Jan 12, 2025), <https://www.cbsnews.com/news/former-state-department-officials-concerned-about-us-role-israel-war-in-gaza-60-minutes-transcript/> (statement of Josh Paul).

⁷¹ John Hudson, *U.S. floods arms into Israel despite mounting alarm over war’s conduct*, THE WASHINGTON POST (March 6, 2024), <https://www.washingtonpost.com/national-security/2024/03/06/us-weapons-israel-gaza/>. The sales invited public scrutiny because the Biden administration bypassed Congress to approve the packages by invoking emergency authority. *See id.*

⁷² U.S. DEP’T OF STATE, BUREAU OF POL.-MIL. AFFS., *supra* note 53.

⁷³ Brief for Civilians in Conflict as Amici Curae Supporting Appellants p. 2, *Def. for Child. Int’l-Palestine v. Biden*, 107 F.4th 926 (9th Cir. 2024) (No. 01-2024).

⁷⁴ Hudson, *supra* note 71.

⁷⁵ *See Joint Direct Attack Munition GBU 31/32/38 Fact Sheet*, U.S. AIR FORCE, <https://www.af.mil/About-Us/Fact-Sheets/Display/Article/104572/joint-direct-attack-munition-gbu-313238/> (last visited Dec. 2, 2024) (explaining that JDAM stand for a Joint Direct Attack Munition and can be used to convert existing unguided free-fall bombs into accurate, adverse weather “smart” munitions).

⁷⁶ *See* Anthony Capaccio, *Boeing Sped 1,000 Smart Bombs to Israel After Hamas Attacks*, BLOOMBERG (Oct. 10, 2023), <https://www.bloomberg.com/news/articles/2023-10-10/boeing-sped-1-000-smart-bombs-to-israel-after-the-hamas-attacks>; *see also*, Edward Wong, *The State Department Approves \$320 Million Sale of Guided Bomb Equipment to Israel*, N.Y. TIMES (Nov. 6, 2023), <https://www.nytimes.com/2023/11/06/world/middleeast/us-israel-bomb-equipment-sale.html>.

⁷⁷ *See* Prem Thakker, *EXCLUSIVE: Biden Administration Sending 6,500 Munitions to Israel, Despite Ongoing Killing of Civilians in Gaza*, ZETEO (Aug. 9, 2024), <https://zeteo.com/p/exclusive-biden-administration-sending>.

⁷⁸ Barak Ravid, *Scoop: U.S. to send Israel artillery shells initially destined for Ukraine*, AXIOS (Oct. 19, 2023), <https://www.axios.com/2023/10/19/us-israel-artillery-shells-ukraine-weapons-gaza>; *see also* Anthony Capaccio, *US*

and Bunker Defeat Munitions, have also been delivered, among many other items.⁷⁹ The United States also provided Israel access to the U.S. weapons stockpile in Israel, known as War Reserve Stock Allies-Israel (WRSA-I).⁸⁰ Deliveries included 57,000 artillery shells; 36,000 rounds of cannon ammunition; 20,000 M4A1 rifles; 13,981 anti-tank missiles; and 8,700 Mk-82, 500 pound bombs.⁸¹ Indeed, according to one senior Pentagon official, the quantity of weapons sent to Israel was so significant that the Department of Defense sometimes struggled to find sufficient cargo aircraft to deliver the systems.⁸² On August 13, 2024, the Biden administration announced an additional \$20.3 billion in arms agreements with Israel to be carried out in future years for the delivery of 50 F-15 fighter aircraft.⁸³ On February 5, 2025, the United States Department of Defense announced that it had authorized the release of additional 2,000 pound bombs to Israel.⁸⁴ And on February 8, 2025, the United States announced that it had approved military sales to Israel worth \$7.4 billion.⁸⁵

25. Each arms export decision is governed by statute, regulations, and policy.⁸⁶ Chief among the statutes are the Foreign Assistance Act of 1961 and the AECA of 1976.⁸⁷ The AECA requires that decisions on issuing export licenses for defense articles and defense services take into account how arms will be used, whether they will contribute to human rights violations, result in an escalation of a conflict, or prejudice other agreements.⁸⁸

Is Quietly Sending Israel More Ammunition, Missiles, BLOOMBERG (Nov. 14, 2023), <https://www.bloomberg.com/news/articles/2023-11-14/pentagon-is-quietly-sending-israel-ammunition-laser-guided-missiles>; DEFENSE SECURITY COOPERATION AGENCY, *Israel – M830A1 120mm Tank Cartridges*, DEFENSE SECURITY COOPERATION AGENCY: NEWS RELEASE (Dec. 9, 2023), <https://www.dsca.mil/sites/default/files/mas/Press%20Release%20-%20Israel%2024-15%20CN%20-%20FINAL.pdf>; Hueyra Pamuk & Mike Stone, *Exclusive: US has sent Israel thousands of 2,000-pound bombs since Oct. 7*, REUTERS (June 29, 2024), <https://www.reuters.com/world/us-has-sent-israel-thousands-2000-pound-bombs-since-oct-7-2024-06-28/>.

⁷⁹ Capaccio, *supra* note 78.

⁸⁰ See CRS RL33222 U.S. FOREIGN AID TO ISRAEL, *supra* note 51, at 28-29.

⁸¹ Bilmes, *supra* note 59, at 2.

⁸² Emma Bubola, *What We Know About the Weapons the U.S. Sends to Israel*, N.Y. TIMES (May 8, 2024), <https://www.nytimes.com/2024/05/08/world/middleeast/us-israel-weapons.html>

⁸³ Bilmes, *supra* note 59, at 2.

⁸⁴ C. Todd Lopez, DEPT. OF DEFENSE, *U.S., D.O.D.'s Commitment to Israel Includes Munitions Previously Withheld* (Feb. 5, 2025), <https://www.defense.gov/News/News-Stories/Article/Article/4055486/us-dods-commitment-to-israel-includes-munitions-previously-withheld/#:~:text=The%20U.S.%20authorized%20the%20release,long%20time%22%20for%20their%20delivery>.

⁸⁵ Patricia Zengerle, *Trump Administration Backs Big Arms Sales to Israel, Defying Congress*, REUTERS (Feb. 8, 2025), <https://www.reuters.com/world/us/us-state-department-approves-military-sales-worth-74-billion-israel-2025-02-07/>.

⁸⁶ See Tina Kaidanow, Acting Assistant U.S. Sec’y of State Bureau of Pol.-Mil. Affs., *Foreign Military Sales: Process and Policy, Testimony before the Foreign Affairs Committee* (June 15, 2017), <https://www.govinfo.gov/content/pkg/CHRG-115hhrg25841/pdf/CHRG-115hhrg25841.pdf>.

⁸⁷ *Id.*

⁸⁸ See The Arms Export Control Act, Need for International Defense Cooperation and Military Export Controls; Presidential Waiver; Report To Congress; Arms Sales Policy, 22 U.S.C § 2751 (1961).

26. Pursuant to section 36(b) of the AECA, the executive branch is to formally notify the Senate Foreign Relations Committee and the House Foreign Affairs Committee when a potential arms sale meets or exceeds specified dollar thresholds.⁸⁹ For arms sales to Israel, those dollar thresholds are \$25,000,000 for “major defense equipment,” or a total of value of \$100,000,000 for a sale of “defense articles or services.”⁹⁰ Yet the executive branch made at least 100 separate military sales to Israel since October 7 “without any public debate.”⁹¹

27. The administration has failed to take appropriate measures to evaluate whether its arms exports have contributed to human rights violations. While providing Israel with unprecedented amounts of military support, the United States has abdicated its responsibility to ensure that such assistance does not contribute to or exacerbate humanitarian crises or violations of international law in Gaza and the rest of the OPT.

c. U.S.-Provided Arms Have Had a Catastrophic Impact in Gaza and the Rest of the OPT.

28. In the first month of the offensive on Gaza, Israeli forces dropped nearly 500 2,000-pound bombs, more than 40 percent of which were dropped in designated safe zones.⁹² The United States manufactures most of the 2,000-pound bombs, which are known as Mk-84s.⁹³ An investigative report which analyzed satellite imagery for bomb craters measuring forty feet or larger—the size experts say are only formed by 2000-pound bombs—found that in six weeks nearly 208 bombs were dropped in areas designated as civilian safe zones.⁹⁴ After two months of bombardment, nearly half of the 29,000 bombs dropped were unguided munitions which had devastating effects on Gaza’s civilian population.⁹⁵

29. The Biden administration, which must sign-off on all arms transfers, sent Israel more than 10,000 of these highly destructive 2000-pound Mk-84 bombs following October 7, 2023.⁹⁶

⁸⁹ The Arms Export Control Act, Reports and Certifications to Congress on Military Exports, 22 U.S.C § 2776(b)(6) (2008).

⁹⁰ *Id.*

⁹¹ Hudson, *supra* note 71.

⁹² Robin Stein, et al., *A Times Investigation Tracked Israel’s Use of One of Its Most Destructive Bombs in South Gaza*, N.Y. TIMES (Dec. 21, 2023), <https://www.nytimes.com/2023/12/21/world/middleeast/israel-gaza-bomb-investigation.html>.

⁹³ Tamara Qiblawi, et al., *‘Not seen since Vietnam’: Israel Dropped Hundreds of 2,000-pound Bombs on Gaza, Analysis Shows*, CNN (Dec. 22, 2023), <https://www.cnn.com/gaza-israel-big-bombs/index.html>.

⁹⁴ Stein, *supra* note 92.

⁹⁵ *Id.*

⁹⁶ Hueyra Pamuk & Mike Stone, *Exclusive: US has sent Israel thousands of 2,000-pound bombs since Oct. 7*, REUTERS (June 29, 2024), <https://www.reuters.com/world/us-has-sent-israel-thousands-2000-pound-bombs-since-oct-7-2024-06-28/>.

30. From the onset of the military assault, Israel has targeted the entire Palestinian population in Gaza and the entire civilian infrastructure, including homes, schools, medical facilities and places of worship. One study by Harvard University revealed that from October 7 to November 17, 2023, nearly one-third of the 2000-pound bombs identified during that period were dropped within the blast range of a hospital.⁹⁷ Since then, Gaza’s healthcare sector has been decimated. Israel’s relentless bombing and ground assault has rendered 114 hospitals and clinics inoperative and has killed 986 medical workers (including 165 doctors).⁹⁸
31. Gaza’s educational system, cultural sites, and places of worship have also suffered devastating damage. Since October 7, 2023, 123 schools and universities have been completely destroyed and 750 teachers and educational staff have been killed.⁹⁹ At least 206 archaeological and heritage sites have been destroyed, including a 747 year old library.¹⁰⁰ Israel has completely destroyed 611 mosques, partially destroyed 214 mosques, and damaged three churches including the Church of Saint Porphyrius, a fifth-century church, and the second oldest active church in the world.¹⁰¹
32. The impact has not just been limited to Gaza. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), 856 Palestinians have been killed in the West Bank, including East Jerusalem, between October 7, 2023 and January 19, 2025.¹⁰² Further, OCHA noted that in 2024 “Israeli forces demolished or forced the demolition of 1,762 Palestinian-owned structures, displacing 4,253 Palestinians, including 1,712 children, and affecting around 165,000 others” in the West Bank, including East Jerusalem.¹⁰³ The numbers of demolitions and displacement are the highest recorded since OCHA began collecting data in 2009. In particular, since the beginning of the ceasefire in 2025, violence in the West Bank has alarmingly increased, and has led to multiple impacts including the closure of 13 schools in the northern West Bank.¹⁰⁴

⁹⁷ *Press Release: New study shows Israel air-dropped 2000lb bombs within lethal and damage ranges of hospitals in Gaza*, HARVARD FXB CTR. FOR HEALTH AND HUM. RTS. (Oct. 10, 2024), <https://fxb.harvard.edu/2024/10/10/new-study-shows-israel-air-dropped-2000lb-bombs-within-lethal-and-damage-ranges-of-hospitals-in-gaza/>.

⁹⁸ Alia Chugtai & Muhammet Okur, *One year of Israel’s War on Gaza*, AL-JAZEERA NEWS NETWORK (Oct. 8, 2024), <https://www.aljazeera.com/news/longform/2024/10/8/one-year-of-israels-war-on-gaza-by-the-numbers>.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Data on Casualties*, OCHA <https://www.ochaopt.org/data/casualties> (last visited Feb. 10, 2025).

¹⁰³ *Humanitarian Situation Update #252 West Bank*, OCHA (Jan. 2, 2025), <https://www.ochaopt.org/content/humanitarian-situation-update-252-west-bank>.

¹⁰⁴ *West Bank Violence Undermining Gaza Ceasefire: UNRWA*, UNITED NATIONS (Feb. 3, 2025) <https://news.un.org/en/story/2025/02/1159686>.

33. Below is a select list of Israeli attacks by munition type in which U.S.-provided weaponry contributed to killing and maiming civilians.¹⁰⁵ Some of these were carried out with Boeing-made Guided Bomb Units (“GBU”)¹⁰⁶, in particular GBU-31 and GBU-32 munitions:¹⁰⁷
- a. October 9, 2023: Israeli airstrikes hit a busy market in Jabalia refugee camp, killing at least 69 people using “one or two GBU-31 air dropped munitions.”¹⁰⁸ According to the Israeli military, they were targeting a mosque in which Hamas members had been present when they struck Jabalia market, but provided no evidence to substantiate their claim.¹⁰⁹
 - b. October 17, 2023: After the Israeli military told Palestinians in Gaza to flee to Khan Yunis for their safety, it bombed the al-Lamdani family house in Khan Yunis.¹¹⁰ Between 15 and 40 people were killed in the attack.¹¹¹ Remnants of a U.S.-made MK-84 2,000-pound bomb found at the site were later posted on X (formerly known as Twitter).¹¹²
 - c. October 25, 2023: Israeli airstrikes flattened at least 5,700 square meters in the Al Yarmouk neighborhood of Gaza City, killing at least 91 people, including 39 children.¹¹³ An assessment of the structures destroyed determined that “several” 2,000-pound GBU-31s air-dropped munitions were likely dropped by Israeli forces in the attack.¹¹⁴ According to a report from U.N. OHCHR, “The use of a GBU-31 or a GBU-32, in such densely populated areas in the middle of residential neighborhoods when extensive civilian harm would be foreseeable, raises very

¹⁰⁵ These facts are based on investigations conducted by UN agencies, media outlets, and non-governmental organizations.

¹⁰⁶ GBUs are constructed by attaching a specialized guidance kit to a standard bomb body.

¹⁰⁷ *GBU 31/32 Joint Direct Attack Munition (JDAM)*, NAT’L MUSEUM OF THE U.S. AIR FORCE, <https://www.nationalmuseum.af.mil/Visit/Museum-Exhibits/Fact-Sheets/Display/Article/197589/gbu-3132-joint-direct-attack-munitions-jdam/> (last visited Feb. 17, 2025); *Combat Proven: Warfighters Weapon of Choice, Joint Direct Attack Munition*, THE BOEING COMPANY (2015), https://www.boeing.com/content/dam/boeing/boeingdotcom/defense/weapons-weapons/images/jdam_product_card.pdf.

¹⁰⁸ U.N. HIGH COMMISSIONER ON HUM. RTS., THEMATIC REPORT: INDISCRIMINATE AND DISPROPORTIONATE ATTACKS DURING THE CONFLICT IN GAZA (OCTOBER – DECEMBER 2023) (June 19, 2024).

¹⁰⁹ *Damning Evidence of War Crimes As Israeli Attacks Wipe out Entire Families in Gaza*, AMNESTY INT’L (Oct. 20, 2023), <https://www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/>.

¹¹⁰ Nidal Al-Mughrabi, *Gaza Teenager sees Family Killed After Seeking Safety in South*, REUTERS (Oct. 23, 2023), <https://www.reuters.com/world/middle-east/gaza-teenager-sees-parents-siblings-killed-after-seeking-safety-south-2023-10-23/>.

¹¹¹ Shehab News Agency, @ShehabAgency, X, (Oct. 17, 2023, 5:31 AM), <https://x.com/ShehabAgency/status/1714212497387872367>.

¹¹² Airwars Assessment, *Incident Code. ISPT0283*, AIRWARS AND THE ARMAMENT RESEARCH SERVICES, <https://airwars.org/civilian-casualties/ispt0283-october-17-2023/> (last visited Feb. 17, 2025).

¹¹³ U.N. Doc. A/HRC/55/28, *supra* note 24, at ¶ 33.

¹¹⁴ *Id.* at ¶ 34.

serious concerns that those attacks were disproportionate and/or indiscriminate, and that no or insufficient precautions were taken.¹¹⁵

- d. October 31, 2023: After Israeli airstrikes on Jabalia, Gaza’s largest refugee camp, a nearby hospital said it received 400 casualties, including 120 dead, most of whom were women and children.¹¹⁶ An analysis of the site showed at least five craters, the largest one likely from a GBU-31 or possibly a GBU-56, both U.S. made 2,000-pound bombs according to a former U.N. weapons inspector.¹¹⁷ According to reports, Israeli forces gave no warning before the attack, and no effort was made to evacuate the residential buildings.¹¹⁸ The use of such munitions in densely populated areas where extensive civilian harm is foreseeable raises very serious concerns that those attacks were disproportionate and/or indiscriminate, and that insufficient precautions were taken.¹¹⁹
- e. January 13, 2024: Starting in mid-October 2023, the Israeli military warned civilians to move below the Wadi Gaza line to the south for safety.¹²⁰ It was here that in the city of Deir al-Balah—a designated safe zone well below the Wadi Gaza line—Israel bombed homes, a mosque, and a hospital between December 8, and January 13, 2024.¹²¹ Israeli forces dropped a U.S.-made MK-84 2,000-pound bomb in Deir al-Balah, destroying a home and leaving a 40-foot size crater.¹²² By mid-January, Israeli bombing had leveled entire city blocks and dozens of family homes in Deir al-Balah.¹²³

34. As of June 2024, Israel had dropped nearly 2,600 250-pound GBU-39 munitions.¹²⁴ These are “small-diameter” bombs advertised as a “low collateral damage” precision weapon by Boeing.¹²⁵ They are comparable to the type of munitions used in a strike that killed the seven aid workers from World Central Kitchen.¹²⁶ The blast radius from a GBU-39 blast

¹¹⁵ *Id.*

¹¹⁶ Emma Graham-Harrison et al., *Cratered ground and destroyed lives: piecing together the Jabalia camp airstrike*, THE GUARDIAN (Nov. 1, 2023), <https://www.theguardian.com/world/2023/nov/01/jabalia-camp-airstrike-gaza>

¹¹⁷ *Id.*

¹¹⁸ U.N. Doc. A/HRC/55/28, *supra* note 24, at ¶ 38.

¹¹⁹ *Id.* at ¶ 37; David Cloud, *How an Israeli Airstrike on a Hamas Commander also Killed Scores of Civilians*, WALL ST. J. (Dec. 28, 2023), <https://www.wsj.com/world/middle-east/israeli-airstrike-hamas-commander-civilian-deaths-3b6be664>.

¹²⁰ Victoria Beaulé, *As Israel warned Gaza civilians to evacuate, IDF bombs struck city described as sanctuary*, ABC NEWS (Jan. 25, 2024), <https://abcnews.go.com/International/israel-warned-gaza-civilians-evacuate-idf-bombs-struck/story?id=106406942>

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *See* Pamuk, *supra* note 96.

¹²⁵ SMALL DIAMETER BOMBS (SDB): LOW-COST, PRECISION-STRIKE WEAPON SYSTEM, BOEING PRODUCT CARDS, BOEING (2015), https://www.boeing.com/content/dam/boeing/boeingdotcom/defense/weapons-weapons/images/small_diameter_bomb_product_card.pdf.

¹²⁶ John Hudson, *U.S. Approved Bombs to Israel Day of World Central Kitchen Attack*, WASHINGTON POST (Apr. 4, 2024), <https://www.washingtonpost.com/national-security/2024/04/04/world-central-kitchen-us-weapons-israel/>.

can kill or injure anyone within 1,000 feet and the shrapnel from the bomb's steel casing can kill or injure anyone within 570 feet.¹²⁷

- a. January 9, 2024: an Israeli attack on a residential building in a neighborhood that was in a “safe-zone” killed 18 people, including 10 children, and wounded at least eight others.¹²⁸ No evidence was found or presented that the target could be a legitimate military target. Fragments of GBU-39s were recovered from the rubble.¹²⁹
- b. May 13, 2024: Israeli forces bombed a family home and a school housing displaced civilians in Nuseirat, killing up to 30 people.¹³⁰ A former U.S. Army explosives expert verified on the social media platform X that the blast pattern and shrapnel recovered at the site were consistent with those of the GBU-39.¹³¹
- c. May 26, 2024: An Israeli airstrike, using GBU-39s, on a displacement camp in Rafah filled with makeshift tents killed at least 46 people—including 23 women, children, and older adults—and injured more than 240 others.¹³²
- d. June 6, 2024: In what was one of the more brazen attacks on a UN-run al-Sardi school in Nuseirat in Central Gaza at least two GBU-39 munitions were used in an Israeli airstrike that killed 40 people, including nine women and 14 children.¹³³ About 6,000 displaced Palestinians were sheltering at the school when it was bombed.¹³⁴ A U.S.-made navigation device manufactured by Honeywell was also documented at the site.¹³⁵

¹²⁷ Bilal Shbair et al., *Carnage and Contradiction: Examining a Deadly Strike in Rafah*, N.Y. TIMES (June 14, 2024), <https://www.nytimes.com/2024/06/14/world/europe/carnage-and-contradiction-examining-a-deadly-strike-in-rafah.html>.

¹²⁸ *Israel/OPT: New Evidence of unlawful Israeli attacks in Gaza causing mass civilian casualties amid real risk of genocide*, AMNESTY INT’L (Feb. 12, 2024), <https://www.amnesty.org/en/latest/news/2024/02/israel-opt-new-evidence-of-unlawful-israeli-attacks-in-gaza-causing-mass-civilian-casualties-amid-real-risk-of-genocide/>.

¹²⁹ *Id.*

¹³⁰ Liam Stack & Nader Ibrahim, *Israel strikes on a home and a school building kill dozens of people, as fighting rages across Gaza*, N.Y. TIMES (May 14, 2024), <https://www.nytimes.com/live/2024/07/16/world/israel-gaza-war-hamas>.

¹³¹ Trevor Ball, @Easybakeovensz, X (May 21, 2024, 9:12 AM), <https://x.com/Easybakeovensz/status/1792906402777665987>.

¹³² *UN experts outraged by Israeli strikes on civilians sheltering in Rafah Camps*, UNITED NATIONS: PRESS RELEASE (May 29, 2024), <https://www.ohchr.org/en/press-releases/2024/05/un-experts-outraged-israeli-strikes-civilians-sheltering-rafah-camps>; Lara Jakes, *A Small American Bomb Killing Palestinians by the Dozen in Gaza*, N.Y. TIMES (June 8, 2024), <https://www.nytimes.com/2024/06/08/world/middleeast/us-israel-bomb-gbu39-gaza.html>.

¹³³ Usaid Siddiqui & Joseph Stepansky, *Israel's war on Gaza updates: School strike contradicts 'all moral values'*, AL-JAZEERA NEWS (June 6, 2024), <https://www.aljazeera.com/news/liveblog/2024/6/6/israels-war-on-gaza-live-relentless-israeli-strikes-kill-102-palestinians>.

¹³⁴ Louisa Loveluck et al., *Israel Used U.S. Munition in Deadly Strike on U.N. School, Experts say*, WASHINGTON POST (June 6, 2024), <https://www.washingtonpost.com/world/2024/06/06/israel-hamas-war-news-gaza-palestine-rafah/>.

¹³⁵ *U.S. Weapons Part Used in Israeli Attack on Gaza School: Al-Jazeera Analysis*, AL-JAZEERA NEWS (June 6, 2024), <https://www.aljazeera.com/news/2024/6/6/us-weapons-parts-used-in-israeli-attack-on-gaza-school-al-jazeera-analysis>.

- e. August 10, 2024: An Israeli airstrike on al-Tabin school and a mosque in Gaza City, which was being used to shelter displaced people, killed more than 100 Palestinians.¹³⁶ Remnants of at least two GBU-39s were identified at the scene, where paramedics reported finding bodies that were “ripped to pieces.”¹³⁷
35. Unguided munitions are converted to smart bombs using JDAM tail kits containing global positioning systems (GPS) and inertial navigation systems (INS) control units.¹³⁸ Thousands of U.S. supplied JDAMs have been used in attacks on civilians since October 7, 2023,¹³⁹ some of which are listed below:
- a. October 10, 2023: An Israeli airstrike on the al-Najjar family home in Deir al-Balah killed 24 civilians.¹⁴⁰ The code stamped on a recovered munition fragment, (70P862352) indicates that a U.S.-supplied JDAM was used in the attack.¹⁴¹
 - b. October 22, 2023: An Israeli airstrike on the Abu Mu’eileq family home located in an area designated a “safe zone” in Deir al-Balah killed 19 people, including 12 children.¹⁴² The same JDAM associated code was found stamped on scrap recovered at the site of attack.¹⁴³
 - c. July 13, 2024: An Israeli strike on the Al-Mawasi—another Israeli military-designated “safe zone”—killed over 90 people and injured hundreds more. Remnants of a U.S.-made JDAM were found at the scene, which based on the size, was likely fitted to either a 1,000- or 2,000-pound bomb.¹⁴⁴
36. A harrowing event on January 29, 2024, which independent experts warned may amount to a war crime, is worthy of mention as well.¹⁴⁵ A car filled with civilians attempting to flee

¹³⁶ *Exclusive: Al-Tabin attack ‘deliberately timed to cause maximum casualties’*, AL-JAZEERA NEWS (Aug. 13, 2024), <https://www.aljazeera.com/news/2024/8/13/exclusive-al-tabin-attack-deliberately-timed-to-cause-maximum-casualties>.

¹³⁷ Irene Nasser et al., *Israeli strike on mosque and school in Gaza kills scores, sparking international outrage*, CNN (Aug. 11, 2024), <https://www.cnn.com/2024/08/10/middleeast/israeli-school-strike-gaza-intl-hnk/index.html>.

¹³⁸ See Joint Direct Attack Munition GBU 31/32/38 Fact Sheet, U.S. AIR FORCE, *supra* note 75.

¹³⁹ See Capaccio, *supra* note 76; see also Wong, *supra* note 76.

¹⁴⁰ *Israel/OPT: US made munitions killed 43 civilians in two documented Israeli air strikes in Gaza – New investigation*, AMNESTY INT’L (Dec. 5, 2023), <https://www.amnesty.org/en/latest/news/2023/12/israel-opt-us-made-munitions-killed-43-civilians-in-two-documented-israeli-air-strikes-in-gaza-new-investigation/>.

¹⁴¹ *Id.*; Serial numbers identifying aircraft parts can be tracked using this database which traced the code in question to Boeing. See PART TARGET, “1560-01-537-9358”, https://www.parttarget.com/1560-01-537-9358_1560015379358_70P862352-1003.html (last visited Feb. 17, 2025).

¹⁴² *Israel/OPT: US made munitions killed 43 civilians in two documented Israeli air strikes in Gaza – New investigation*, AMNESTY INT’L (Dec. 5, 2023), <https://www.amnesty.org/en/latest/news/2023/12/israel-opt-us-made-munitions-killed-43-civilians-in-two-documented-israeli-air-strikes-in-gaza-new-investigation/>.

¹⁴³ *Id.* (detailing that the JDAM that killed members of the al-Najjar family was manufactured in 2017, while the JDAM that killed members of the Abu Mu’eileq family was manufactured in 2018).

¹⁴⁴ Abeer Salman et al., *At least 90 Palestinians reported killed in Israeli strike targeting Hamas military chief*, CNN (July 14, 2024), <https://www.cnn.com/2024/07/13/middleeast/mawasi-deif-israel-hamas-gaza-intl/index.html>.

¹⁴⁵ *Gaza: Killing of Hind Rajab and her Family – a War Crime Too Many, Warn Experts*, UN: PRESS RELEASE (July 19, 2024), <https://www.ohchr.org/en/press-releases/2024/07/gaza-killing-hind-rajab-and-her-family-war-crime-too-many-warn-experts>.

Tel al-Hawa neighborhood in Gaza was met with deadly force when Israeli soldiers indiscriminately fired 355 bullets at their Kia Picanto.¹⁴⁶ Everyone in the car was killed except for five-year-old Hind Rajab.¹⁴⁷ For hours, paramedics from the Palestinian Red Crescent waited to receive permission from Israeli authorities to attempt to rescue the little girl who was on the phone with them waiting, surrounded by six of her dead relatives.¹⁴⁸ Finally, after the ministry of health negotiated the safe passage of their ambulance, the paramedics arrived only to be shot and killed upon arrival.¹⁴⁹ Two weeks later when their bodies (including Hind Rajab's) were recovered, investigators identified a U.S.-made high explosive tank round at the site which was consistent with rounds fired by Israeli tanks.¹⁵⁰

37. To accurately portray the implications of U.S. military aid to Israel, not only in the context of the ongoing conflict in Gaza in particular, but the OPT in general, it is crucial to recognize the vital role that U.S. support plays in exacerbating the plight of Palestinians. It is unlikely that Israel could have carried out an attack of this scale, killing tens of thousands of Palestinians and giving rise to allegations of genocide, without U.S.-provided arms. An Israeli Air Force official in an interview to Haaretz stated, “Without U.S. support, Israel couldn’t fight in Gaza beyond a few months.”¹⁵¹ As one U.S. official responsible for oversight of U.S. arms transfers stated, “it would be impossible for Israel to have conducted the past two months of military operations as it has without utilizing a vast amount of U.S.-origin weaponry.”¹⁵² The extensive military aid and arms exports from the U.S. have not only bolstered Israel's military capabilities but have also directly facilitated operations in Gaza and the rest of the OPT which have been widely criticized for extensive civilian casualties, exacerbating humanitarian crises, and disregard for international law.¹⁵³ These statements make clear that the United States is complicit in Israel's crimes against the Palestinian population, and has aided and abetted those crimes from October 7, 2023 to the present day.

¹⁴⁶ See Owen Jones, *Hind Rajab's Death Has Already Been Forgotten. That's Exactly What Israel Wants*, THE GUARDIAN (Aug. 18, 2024), <https://www.theguardian.com/commentisfree/article/2024/aug/18/hind-rajab-israeli-state-atrocity>.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ See Meg Kelly et al., *Palestinian paramedics said Israel gave them safe passage to save a 6-year-old girl in Gaza. They were all killed*, WASHINGTON POST (Apr. 16, 2024), <https://www.washingtonpost.com/world/interactive/2024/hind-rajab-israelgaza-killing-timeline/>.

¹⁵¹ Yossi Melman, *Israeli Air Force Official: Without U.S. Aid, Israel Couldn't Fight in Gaza Beyond a Few Months*, HAARETZ (Sept. 2, 2024), <https://www.haaretz.com/israel-news/2024-09-02/ty-article-magazine/.premium/without-u-s-aid-israel-would-have-struggled-to-fight-in-gaza-beyond-a-few-months/00000191-acc2-d875-a3bb-aed7e2e30000>.

¹⁵² Declaration of Josh Paul in Support of Plaintiffs' Motion for Preliminary Injunction, *Defense for Children Int'l v. Biden*, No. 23-cv-05829, 5-6 (N.D. Cal. Dec. 22, 2023).

¹⁵³ Kanishka Singh and Humeyra Pamuk, *Gaza protests: US officials who have quit over Biden's support of Israel*, REUTERS (Dec. 19, 2024), <https://www.reuters.com/world/middle-east/us-officials-who-have-resigned-protest-over-bidens-gaza-policy-2024-07-02/>.

d. United States Has Not Taken Measures to Control Arms Exports to Israel.

38. The executive and legislative branches of government have several mechanisms in place to limit the export of arms when they are not being used in compliance with U.S. or international humanitarian laws. They are deliberately violating them. The AECA, which governs all arms exports, includes relevant specific provisions that state:

[D]efense articles and services may be transferred solely for internal security, for legitimate self-defense¹⁵⁴ for preventing or hindering the proliferation of weapons of mass destruction, and of the means of delivering such weapons, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries.¹⁵⁵

39. Within the above framework, there are several provisions regarding human rights violations which grant Congress and other entities external to the Executive Branch the right to intercede and prevent arms transfers when blatant violations occur. They are:

- a. **Section 502B of the FAA:** Section 502B of the FAA prohibits security assistance to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.¹⁵⁶ The statute provides that a principal goal of the foreign policy of the United States is to promote the increased observance of internationally recognized human rights by all countries.¹⁵⁷ Specifically, the statute defines these obligations as those “set forth in the Charter of the United Nations” and imbued in the constitutional heritage of the United States to “promote and encourage increased respect for human rights and

¹⁵⁴ Although the statute does not clearly define legitimate and illegitimate self-defense, international law does provide a definition in the U.N. Charter. According to Chapter VII, Article 51 of the U.N. Charter acknowledges self-defense as an exception to the prohibition against the use of force in response to an armed attack. U.N. members must report actions taken in self-defense, and these actions must be necessary and proportionate to the aggression.

¹⁵⁵ 22 U.S.C. § 2751; 22 U.S.C. § 2754. Congress delegated the management and oversight of U.S. security assistance, including arms transfers, primarily (after the President) in the Secretary of State to supervise, direct, and evaluate military assistance for a country and the value thereof. . . . 22 U.S.C. § 2382(c).

¹⁵⁶ See 22 U.S.C. 2378d § 502B.

¹⁵⁷ See *id.*

fundamental freedoms throughout the world without distinction to race, sex, language, or religion.”¹⁵⁸ Finally, the statute *directs* the President to avoid identification “with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States” as expressed in the statute or otherwise.¹⁵⁹ The statute goes on to establish a mandatory reporting requirement to Congress on human rights practices in any country receiving U.S. security assistance, granting congressional authority to adopt a joint resolution terminating, restricting, or continuing assistance for a country’s failure to comply.¹⁶⁰ Congress may block or modify an arms sale at any time up to the point of delivery of the items involved.¹⁶¹

- b. **Section 620I of the Foreign Assistance Act (“FAA”):** Section 620I of the FAA prohibits security assistance from being provided to any country when it is made known to the President that the government of such a country “prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.”¹⁶² Earlier this year 25 humanitarian, human rights, and arms control organization wrote a letter to the President demanding compliance with U.S. law for Israel’s stifling of U.S. aid into Gaza, specifically citing Section 620I of the FAA.¹⁶³
- c. **Leahy Laws:** The Leahy laws are two statutory provisions that prohibit U.S. arms exports to foreign security forces units where there is credible information implicating the unit in the commission of gross violations of human rights (“GVHRs”), including torture, extrajudicial killings, enforced disappearance, and rape under color of law.¹⁶⁴ One provision applies to the Department of State (“State”) and the other applies to Department of Defense (“DoD”):

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *One Pager on How Can U.S. Congress Use Section 502B: A Four-Step Process*, CTR. FOR CIVILIANS IN CONFLICT (May 6, 2022), <https://civiliansinconflict.org/wp-content/uploads/2022/05/How-US-Congress-Can-Use-502B.pdf>.

¹⁶¹ *See generally*, PAUL KERR, CONG. RSCH. SERV., RL31675, ARMS SALES: CONGRESSIONAL REVIEW PROCESS, (Aug. 13, 2024) (illustrating how Congress has never successfully blocked a proposed transfer via this process although by expressing strong opposition to prospective sales, during consultations with the executive branch, affected the timing and the composition of some arms sales, and may have dissuaded the President from formally proposing certain arms sales in some instances).

¹⁶² 22 U.S.C 2378d § 620I.

¹⁶³ *NGOs to President Biden: Comply with US Law, End Support for Aid Restrictions in Gaza*, CTR. FOR CIVILIANS IN CONFLICT (March 12, 2024), <https://civiliansinconflict.org/press-releases/ngos-to-president-biden-comply-with-us-law-end-support-for-aid-restrictions-in-gaza/>.

¹⁶⁴ GLOBAL HUMAN RIGHTS: SECURITY FORCES VETTING (“LEAHY LAWS”), CONGRESSIONAL RESEARCH SERVICE (Jan. 6, 2025),

- i. State Leahy Law: Section 620M of the Foreign Assistance Act (FAA) of 1961 as amended in 2020 states that no assistance shall be furnished . . . to any unit of the security forces of a foreign country if the Secretary of State has credible information that such unit has committed a gross violation of human rights.¹⁶⁵
- ii. DoD Leahy Law: Similarly, the Secretary of Defense may not use DoD funds for foreign security forces if there is credible information of their involvement in GVHR.¹⁶⁶ Consultation with the Secretary of State is required before assistance is given, ensuring full consideration of any relevant GVHR information.¹⁶⁷

40. According to a former State Department official, “[I]t is clear that the U.S. government is failing not only to execute due diligence required under existing U.S. laws, but is actively creating and utilizing processes that help insulate Israel from accountability or sanctions in accordance with existing U.S. laws and policies.”¹⁶⁸ Unfettered arms exports to Israel, despite the overwhelming evidence of misuse, have enabled Israel to carry out widespread, discriminatory, unjustified attacks on civilians and civilian infrastructure in violation of the CERD.

IV. CANADA HAS AIDED ISRAEL IN VIOLATING THE CONVENTION BY EXPORTING ARMS, INCLUDING PARTS AND COMPONENTS, DESTINED FOR ISRAEL.

a. Canada Does Not Adequately Control Arms Destined for Israel

41. Canada’s arms export regime operates under a permit-based model. Under the *Export and Import Permits Act* (“EIPA”),¹⁶⁹ Canadian exporters must generally apply for and receive a permit to export military goods or technology.

42. The arms export scheme of the EIPA operates as follows:

<https://crsreports.congress.gov/product/pdf/IF/IF10575#:~:text=DOD%20must%20report%20to%20Congress,making%20%80%94a%20low%20evidentiary%20standard..>

¹⁶⁵ 22 U.S.C 2378d § 620M; *see also* Complaint, Gaza, et al v. Blinken (D.D.C. 2024).

¹⁶⁶ 10 U.S.C. § 362(a)(1).

¹⁶⁷ *Id.*

¹⁶⁸ Decl. of Josh Paul, in Supp. of Pl.’s Mot. for Prelim. Inj. ¶ 11, *Def. for Child. Int’l-Palestine v. Biden*, 2023 WL 9864558 (N.D.CAL.) (No. 23-cv-05829).

¹⁶⁹ Export and Import Permits Act, RSC 1985, c E-19, <https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-e-19/222400/rsc-1985-c-e-19.html>.

- Section 3(1) establishes an Export Control List, which sets out items that are controlled for export (such as arms, weapons, and related systems and technology).
- Section 13 prohibits the export of any item on the Export Control List without a permit.
- Section 7(1) authorizes the issuance of **individual permits** to any resident of Canada to export a specified quantity of an item on the Export Control List to a specified country.
- Section 7(1.1) authorizes the issuance of **general permits** to all residents of Canada

43. Following Canada’s accession to the Arms Trade Treaty (“ATT”) in 2019, the EIPA was amended to incorporate provisions of the ATT with respect to the transfer of goods and technology for use in the commission of genocide, crimes against humanity, war crimes, and the commission of human rights violations. This included, among other things:

- a. A requirement under section 7.3(1) that the Minister of Foreign Affairs assess all proposed export and brokering permits for arms, ammunition, implements or munitions of war to determine whether the goods or technology could be used to commit or facilitate a serious violation of international human rights law or international humanitarian law, or serious acts of gender-based violence or violence against women and children;¹⁷⁰ and
- b. A requirement under section 7.4 that the Minister of Foreign Affairs not issue a permit in respect of arms, ammunition, implements or munitions of war where there is a substantial risk that such goods or technology would result in the negative consequences noted above.¹⁷¹

44. While these amendments were an important step towards addressing, preventing and mitigating the impact of arms transfers on human rights, there remain some significant gaps in Canada’s legal framework. Notably:

- Section 2(a) of the Export Control List excludes certain military exports from the list if they are destined for the U.S.¹⁷²

¹⁷⁰ Export and Import Permits Act, RSC 1985, c E-19, ss. 7.3(1), <https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-e-19/222400/rsc-1985-c-e-19.html>.

¹⁷¹ Export and Import Permits Act, RSC 1985, c E-19, s. 7.4, <https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-e-19/222400/rsc-1985-c-e-19.html>.

¹⁷² Export Control List, SOR/89-202, ss. 2(a), <https://laws-lois.justice.gc.ca/eng/regulations/sor-89-202/page-1.html#h-918657>.

- Section 2 of a general permit known as General Export Permit No. 47 (“GEP 47”) authorizes any Canadian resident to export a further range of military goods and technology without obtaining an individual permit, if the goods or technology are destined for the US.¹⁷³

45. The result of these two mechanisms is that the vast majority of military goods or technology do not require an individual permit to be exported to the U.S. For example, GEP 47 authorizes any resident of Canada to export a wide range of weapons (such as combat vehicles, large-caliber artillery systems, military aircraft, helicopters and related systems, missiles and missile launchers, and small arms), as well as parts and components, to the U.S. without the need to apply for an individual export permit.¹⁷⁴ This means that the transfer of these goods is not subject to any human rights assessment under the EIPA nor any oversight regarding the end use of such goods and technology.

b. Canada Exports Weapons, both Directly and Indirectly, to Israel.

46. Between October and December 2023, the Canadian government authorized new permits totaling at least C\$28.5 million (US\$20.5 million) of military exports directly to Israel. About C\$1.7 million (US\$1.2 million) of these new permits were classified under an export category comprising “bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories, and specially designed components.”¹⁷⁵ In March 2024, the Canadian government announced that it would halt the issuance of new permits to export arms to Israel, and that it had stopped doing so in January 2024. However, the government did not cancel or suspend existing permits already issued but not utilized.¹⁷⁶ According to Canadian government data as of July 2024 there remained active permits to export a total of approximately C\$94.5 million (US\$69 million) of arms to Israel by the end of 2025.¹⁷⁷

¹⁷³ General Export Permit No. 47 – Export of Arms Trade Treaty Items to the United States: SOR/2019-230, s. 2, <https://gazette.gc.ca/rp-pr/p2/2019/2019-06-26/html/sor-dors230-eng.html>.

¹⁷⁴ Export Control List, SOR/89-202, <https://laws-lois.justice.gc.ca/eng/regulations/sor-89-202/page-1.html#h-918657>.

¹⁷⁵ Alex Cosh, *Trudeau Government Authorized \$28.5 Million of New Military Exports to Israel Since October*, The Maple (Feb. 10, 2024), <https://www.readthemaple.com/trudeau-government-authorized-28-million-of-new-military-exports-to-israel-since-october/>.

¹⁷⁶ Catherine Tunney, *Blair Says Controversial Motion on Arms Exports Doesn't Change Government's Approach to Israel*, CANADIAN BROADCASTING CORPORATION (Mar. 21, 2024), <https://www.cbc.ca/news/politics/netanyahu-israel-hamas-motion-none-is-too-many-canada-1.7151136>.

¹⁷⁷ Emma Paling, *\$95 Million in New Canadian Military Goods Could Flow to Israel by 2025*, THE MAPLE (Aug. 1, 2024), <https://www.readthemaple.com/95-million-in-new-canadian-military-goods-could-flow-to-israel-by-2025/>.

47. In September 2024, the Minister of Foreign Affairs announced that Canada suspended about 30 existing permits for weapons exports to Israel. This represented only a fraction of existing active permits (approximately 200), and the government provided little information on how the decision was made to suspend these 30 permits or what they were meant to export.¹⁷⁸ The government also chose to suspend these permits rather than cancel them, which means they can be reactivated at any time.
48. Notably, Canada also did not freeze or cancel military exports that go to Israel through the U.S., which are not subject to human rights assessments or controls. Given that Canada's special arrangements effectively exempt most military exports to the U.S. from permit requirements, the suspension of new export authorizations for direct arms to Israel does not impact the export of military goods and technology to Israel through the U.S. The US receives nearly half of all Canadian military exports¹⁷⁹ and, as stated above, supplies approximately 69% of Israel's total arms imports.¹⁸⁰
49. In August 2024, the U.S. Department of Defense announced¹⁸¹ an agreement to provide Israel with 50,000 120mm high-explosive mortar cartridges, to be purchased from a Canadian manufacturer.¹⁸² The announced value of this single transaction was US\$61.1 million. For comparison, the total value of *all* permits for direct military exports from Canada to Israel in 2022 was US\$20.8 million.¹⁸³ Media reports suggest that the Canadian government responded to the August 2024 arms sale announcement by writing a letter to the Canadian manufacturer to "request" that it "temporarily refrain" from exporting the items.¹⁸⁴ However, there is no indication that it made any move to affirmatively block the transaction, nor is it clear that there is a mechanism for it to do so under the current regulatory framework, as the regulations allowing the manufacturer to export the mortar ammunition to the U.S. without obtaining an individual permit remain in place. Canada has not made any efforts to address these legal

¹⁷⁸ *Big Win: Canada Suspends Arms Deals Following Pressure from CJPME and Allies*, CANADIANS FOR JUSTICE AND PEACE IN THE MIDDLE EAST (Sept. 12, 2024), https://www.cjpme.org/joly_statement_arms.

¹⁷⁹ United States of America International Trade Administration, *Canada – Country Commercial Guide: Defense Equipment* (Nov. 3, 2023), <https://www.trade.gov/country-commercial-guides/canada-defense-equipment>.

¹⁸⁰ Antoinette Radford, *Who Supplies Israel with Weapons?*, CNN (Oct. 16, 2024),

<https://www.cnn.com/2024/10/16/middleeast/where-israel-get-its-weapons/index.html>; Robert Tait, *Which Countries Supply Israel with Arms and Why is Biden Reluctant to Stop?*, THE GUARDIAN (April 9, 2024), <https://www.theguardian.com/world/2024/apr/09/us-israel-weapons>.

¹⁸¹ DSCA, *Israel – M933A1 120mm High Explosive Mortar Cartridges*, Press Release (Aug. 13, 2024),

<https://www.dsca.mil/press-media/major-arms-sales/israel-m933a1-120mm-high-explosive-mortar-cartridges>.

¹⁸² Emanuel Fabian, *Israel Advancing Deals with US to Purchase Fighter Jets, Helicopters and Munitions*, THE TIMES OF ISRAEL (Jan. 26, 2024), <https://www.timesofisrael.com/israel-advancing-deals-with-us-to-purchase-fighter-jets-helicopters-and-munitions/>.

¹⁸³ GOVERNMENT OF CANADA, REPORT ON EXPORTS OF MILITARY GOODS FROM CANADA – 2022,

<https://www.international.gc.ca/transparency-transparence/controls-controles/military-goods-2022-marchandises-militaires.aspx?lang=eng>.

¹⁸⁴ Steven Chase, *Federal government puts roadblock in front of ammo-supply deal for Israel*, THE GLOBE AND MAIL (Sept. 12, 2024), <https://www.theglobeandmail.com/politics/article-federal-government-puts-roadblock-in-front-of-ammo-supply-deal-for/>.

loopholes in its regulations, which operate to shield most arms exports to the U.S. from human rights assessments in violation of Canada's international obligations.

50. In addition to the export of arms, Canada also contributes to arming Israel through the export of parts and components. Canadian-made parts and components have gone into key U.S.-supplied military equipment used by Israel. The F-35 Joint Strike Fighter, used by Israeli forces in the ongoing bombardment of Gaza,¹⁸⁵ includes components manufactured by at least 110 Canadian-based suppliers since the 1990s, including segments of the F-35's airframe and internal components such as engine monitoring sensors, printed circuit boards, segments of the landing gear, inserts of the weapons bay door, and the horizontal tail of the aircraft. A 2018 study commissioned by Lockheed Martin stated there are "2.3 million USD [approximately C\$3.1 million] worth of Canadian components on every F-35 jet manufactured."¹⁸⁶ In January 2023, then Canadian Minister of National Defense Anita Anand stated that "every one of" approximately three thousand F-35s forecast to be produced "will also include Canadian components."¹⁸⁷
51. Canadian companies also provide aerospace parts for the F-15 fighter¹⁸⁸ and AH-64 Apache attack helicopters, both of which are used in Israel's air assault on Gaza.¹⁸⁹ On March 6, 2023, Magellan Aerospace Corporation announced a long-term agreement with Collins Aerospace, a Raytheon Technologies business, to manufacture castings for military and commercial aerospace platforms to be produced in Renfrew, Ontario and Glendale, Arizona. The agreement includes the supply of castings for F-15 and F-35 Lightning II jets.¹⁹⁰ The Israeli Ministry of Defense announced it had signed a deal with Boeing on November 6, 2024 to purchase twenty-five F-15 fighters.¹⁹¹

¹⁸⁵ Emanuel Fabian, *IDF Chief Says Israel 'knows how to reach anywhere in the Middle East'*, THE TIMES OF ISRAEL (Nov. 6, 2023), https://www.timesofisrael.com/liveblog_entry/idf-chief-says-israel-knows-how-to-reach-anywhere-in-the-middle-east/.

¹⁸⁶ PROJECT PLOUGHSHARES, *FANNING THE FLAMES: THE GRAVE RISK OF CANADA'S ARMS EXPORTS TO ISRAEL* 8 (Jan. 2024), https://cdn.prod.website-files.com/63e066081ef50cb16a3f4157/65a93fcedd2a489c326fa7b_Fanning%20the%20Flames%20Report_Update_d_Jan.18.24.pdf.

¹⁸⁷ *Id.*

¹⁸⁸ BOEING, *BOEING IN CANADA* (2024), <https://web.archive.org/web/20240412193303/http://web.archive.org/screenshot/https://www.boeing.ca/boeing-in-canada/#backgrounder>.

¹⁸⁹ News Wires, *Israel Hits Gaza from Land, Sea and Air as Hamas Pulls Out of Truce Talks*, FRANCE24 (July 15, 2024), <https://www.france24.com/en/live-news/20240715-israel-hits-gaza-from-land-sea-and-air-as-hamas-halts-talks>.

¹⁹⁰ *Magellan Aerospace Signs Agreement with Collins Aerospace for Complex Castings*, MAGELLAN AEROSPACE (March 6, 2023), <https://magellan.aero/press-release/magellan-aerospace-signs-agreement-with-collins-aerospace-for-complex-castings/>.

¹⁹¹ Ryan Finnerty, *Israel Orders 25 of Latest F-15 Fighters from Boeing*, FLIGHTGLOBAL (Nov. 7, 2024), <https://www.flightglobal.com/fixed-wing/israel-orders-25-of-latest-f-15-fighters-from-boeing/160645.article>.

52. Canadian partners provide aerospace parts for AH-64 Apache attack helicopters manufactured by Boeing.¹⁹² The IAF currently operates 48 AH-64 A/Ds¹⁹³ armed with 30mm chain guns and can attack ground targets with US-made Hellfire and Israeli-made Spike missiles.¹⁹⁴ Israel's request for 12 new AH-64 Apaches from the US has reportedly been given priority in meetings between senior US and Israeli defense officials and the president of Boeing Defense, Space & Security.¹⁹⁵

c. Canada Has Not Taken Measures to Control Arms Exports to Israel.

53. There are simple measures that Canada can take to ensure that its military exports to the US are not reexported to Israel and used to facilitate serious human rights violations. For instance, it can simply require an individual permit for all military exports to the US as it does for military exports to all other countries, which would allow Canada to assess the risk that such exports would later be reexported to a third country and used to facilitate serious human rights violations.

54. Alternatively, Canada could impose reexport controls on military goods or technology that have been exported to the US without requiring an individual permit. The US, for instance, does impose reexport controls with respect to US military exports to Canada, prohibiting any reexport from Canada to a third country without the prior approval of the US Directorate of Defense Trade Controls. Canada, however, does not impose any such reexport controls reciprocally.

55. In the absence of such measures, by continuing to allow the free movement of military exports to the U.S. and from there onwards to Israel - especially when Canada has acknowledged its obligation to cease direct arms exports to Israel – Canada demonstrates a flagrant disregard for its obligations with respect to Israel's ongoing violations of human rights in Gaza, including under ICERD.

V. THE UNITED STATES AND CANADA HAVE A RESPONSIBILITY TO COMPLY WITH THE CONVENTION

¹⁹² BOEING, BOEING IN CANADA (2024), <https://web.archive.org/web/20240412193303/http://web.archive.org/screenshot/https://www.boeing.ca/boeing-in-canada#backgrounder>.

¹⁹³ FLIGHT INT'L, 2024 WORLD AIR FORCES 21 (2024), <https://www.flightglobal.com/download?ac=98881>.

¹⁹⁴ Arie Egozi, *Israel Shifts Back to the Apache as UAV Switch Fails*, SHEPHARD MEDIA (April 5, 2024), <https://www.shephardmedia.com/news/air-warfare/israel-shifts-back-to-the-apache-as-uav-switch-fails/>.

¹⁹⁵ Emanuel Fabian, *Israel Advancing Deals with US to Purchase Fighter Jets, Helicopters and Munitions*, THE TIMES OF ISRAEL (Jan. 26, 2024), <https://www.timesofisrael.com/israel-advancing-deals-with-us-to-purchase-fighter-jets-helicopters-and-munitions/>.

56. In order to comply with their obligations under the Convention, the United States and Canada must refrain from taking any action that supports violations of the Convention, including by other states parties. By supporting Israel with weaponry and financial aid that have been used to violate the rights of Palestinians under the Convention, the United States and Canada are complicit in the violations of the Convention discussed in this submission.
57. Third Party States, such as the United States and Canada, are responsible for violations of the ICERD caused by their actions, even when the harm occurs outside their territory. UN tribunals and treaty bodies have taken an expansive approach to this question. For example, in *Georgia v. Russian Federation*, the International Court of Justice (“ICJ”) observed that there is no restriction of a general nature in ICERD relating to its territorial application and that Articles 2 and 5 in particular “generally appear to apply . . . to the actions of a State party when it acts beyond its territory.”¹⁹⁶ Similarly, the Human Rights Committee has stated that “there are situations where a State party has an obligation to ensure that rights under the Covenant are not impaired by extraterritorial activities conducted by enterprises under its jurisdiction.”¹⁹⁷ The CEDAW committee has found that State parties “are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territories.”¹⁹⁸
58. The CEDAW committee has also found that states have “due diligence” obligations to protect against discrimination by non-state actors, deriving such obligations from convention language that is closely analogous to language in the ICERD.¹⁹⁹ As the CEDAW committee explained, “[t]he due diligence standard in general human rights law has operated as a tool to enhance the effectiveness of State obligations emanating from treaties or judicial interpretation, encompassing a very important *ex ante* component, by

¹⁹⁶ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Order of Provisional Measures, 208 I.C.J. 353, ¶109 (15 October 2008).

¹⁹⁷ Human Rights Committee, *Decision adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2285/2013, Basem Ahmed Issa Yassin et. al. v. Canada*, U.N. Doc. CCPR/C/120/D/2285/2013, at ¶ 6.5 (Dec. 7, 2017).

¹⁹⁸ Committee on the Elimination of Discrimination against Women, *General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, U.N. Doc. CEDAW/C/GC/28, at ¶ 12 (Dec. 16, 2010).

¹⁹⁹ Committee on the Elimination of Discrimination against Women, *General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, U.N. Doc. CEDAW/C/GC/28, at ¶¶ 9, 13 (Dec. 16, 2010); Committee on the Elimination of Discrimination against Women, *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19*, U.N. Doc. CEDAW/C/GC/35, ¶¶ 14, 39 (July 16, 2017); Compare Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13, 14 [hereinafter CEDAW], art. 2(e) (“ . . . take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise”) to ICERD, art. 2(1)(d) (“ . . . shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization”).

which States must organize their structure through laws, policies, and practices to prevent, as far as possible, human rights violations, so that human rights treaties do not remain merely rhetorical.”²⁰⁰

59. Indeed, in its most recent review of Canada in October 2024, the CEDAW Committee seized on concerns raised by nearly 50 Canadian civil society organizations regarding Canadian military exports to Israel - both directly and indirectly through the U.S.²⁰¹ During the Constructive Dialogue, the Committee acknowledged Canada’s assertion that it had stopped direct arms exports to Israel, but pressed Canada specifically on the issue of indirect exports. Noting that Canada “engages in the indirect flow of military exports to Israel through the USA,” the Committee asked what steps Canada was taking “to ensure that arms sold to the US or other countries are not transferred to Israel and used in the violation of the rights of women and girls in Gaza.”²⁰²
60. Canada responded evasively by stating that all export permit applications are reviewed even if they are through the US, and an application is denied if the review reveals a substantial risk that the item could be used to commit or facilitate serious violations of international humanitarian law, international human rights law, or serious acts of gender-based violence or violence against women and children. While this is strictly true, it conceals the fact that most military exports from Canada to the US do not require an export permit application in the first place.²⁰³ If questioned on this topic by this Committee, Canada will likely attempt to give a similarly evasive and deceptive answer.
61. In its Concluding Observations, the CEDAW Committee expressed concern over Canada’s direct and indirect arms transfers to third countries, including Israel, for use in conflict zones and urged Canada to implement a transparent accountability mechanism to assess such transfers.²⁰⁴
62. Additionally, under customary international law, third states are under an obligation not to recognize or assist illegal acts.²⁰⁵ And an affirmative obligation to cooperate to bring an

²⁰⁰ Paulo de Tarso Lugon Arantes, *The Due Diligence Standard and the Prevention of Racism and Discrimination*, 68(3) NETH INT’L L. REV. 407, 412 (2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC8802257/>.

²⁰¹ INT’L HUM. RTS. PROGRAM, UNIV. OF TORONTO & GLOBAL HUMAN RIGHTS CLINIC, UNIV. OF CHICAGO, FEMINIST FOREIGN POLICY FAIL? ASSESSING CANADA’S HUMAN RIGHTS OBLIGATIONS IN GAZA (Oct. 2024), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FCSS%2FCAN%2F59729&Lang=en.

²⁰² UN Web TV, *2103rd Meeting, 89th Session, Committee on the Elimination of Discrimination Against Women* (16 Oct. 16, 2024), <https://webtv.un.org/en/asset/k10/k10pecn9gn>.

²⁰³ *Transcript of the relevant portions of the dialogue are attached as Appendix A.

²⁰⁴ *Id.*

²⁰⁵ The ICJ underscored this cardinal principal of international law in its Namibia Advisory Opinion, where it held that there was an obligation on the part of all states “to recognize the illegality and invalidity of South Africa’s

end to international law violations exists under two circumstances: (1) when such violations are of a *jus cogens* norm; or (2) an obligation *erga omnes* exists in relation to such violation. Parties to the ICERD, which have undertaken obligations to comply with its provisions, must not recognize or assist in violating those provisions. And because the prohibition of discrimination under the ICERD is a *jus cogens* norm²⁰⁶ and gives rise to obligations *erga omnes*,²⁰⁷ third states must refrain from recognizing or aiding violations of the ICERD and cooperate to bring an end to such violations.²⁰⁸

63. On July 19, 2024, the ICJ released its Advisory Opinion on the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (“ICJ Advisory Opinion”) finding Israel’s prolonged presence in the OPT, including Gaza, to be unlawful.²⁰⁹ The ICJ recognized that “the obligation to respect the right of the Palestinian people to self-determination,” which is violated by Israel’s occupation of the Palestinian Territory, is an obligation *erga omnes*.²¹⁰ Thus, the Court explained, this obligation is “by [its] very nature the concern of all States and in view of the importance of the rights involved, all States can be held to have a legal interest in [its] protection.”²¹¹ The ICJ called on all States to comply with their obligations to refrain from rendering aid or assistance to Israel’s international law violations and cooperate to bring Israel’s violations to an end. This includes taking steps “to prevent trade or investment

continued presence” in Namibia and “to refrain from lending any support or any form of assistance to South Africa with reference to its occupation of Namibia.” *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276*, Advisory Opinion, 1971 I.C.J., ¶ 119 (June 1971); Similarly, in the context of territories under Portuguese colonial control in 1965, the Security Council “[requested] all states to refrain forthwith from offering the Portuguese Government any assistance which would enable it to continue its repression of the people of the Territories under its administration.” S.C. Res. 218, at ¶ 6 (Nov. 23, 1965); Finally, in Resolution 3414, 5 December 1975, the General Assembly “[r]equest[ed] all States to desist from supplying Israel with any military or economic aid as long as it continues to occupy Arab territories and deny the inalienable national rights of the Palestinian people.” G.A. Res. 3414 (XXX), at ¶ 3 (Dec. 5, 1975).

²⁰⁶ *Draft articles on responsibility of States for internationally wrongful acts*, [2001] 2(2) Y.B. Int’l L. Comm’n 26, 85, U.N. Doc. A/56/10.

²⁰⁷ Committee on the Elimination of Racial Discrimination, *Inter-State communication submitted by the State of Palestine against Israel: decision on jurisdiction*, U.N. Doc. CERD/C/100/5, at ¶67(b) (June 16, 2021).

²⁰⁸ *Draft articles on responsibility of States for internationally wrongful acts*, [2001] 2(2) Y.B. Int’l L. Comm’n 26, p. 113, U.N. Doc. A/56/10; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 2004 I.C.J., ¶¶ 156-159 (2004); Third state responsibilities are triggered “when a serious breach of a peremptory norm of general international law or a breach of an obligation owed to the international community as a whole is committed.” Annie Bird, *Third State Responsibility for Human Rights Violations*, 21 EUR. J. INT’L L. VOL. 883, 884 (2010); DIAKONIA INTERNATIONAL HUMANITARIAN LAW CENTRE; RESPONSIBILITY OF THIRD STATES AND INTERNATIONAL ORGANISATIONS EMANATING FROM THE FINDINGS OF THE ICJ’S ADVISORY OPINION OF 19 JULY 2024 (2024), <https://apidiakoniasse.cdn.triggerfish.cloud/uploads/sites/2/2024/10/Responsibility-of-Third-States-and-International-Organisations-Emanating-from-the-Findings-of-the-ICJs-Advisory-Opinion.pdf>.

²⁰⁹ *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, 2024 I.C.J., ¶¶ 278-79 (July 2024) [hereinafter “ICJ Advisory Opinion on the Occupation of Palestine”].

²¹⁰ *Id.*, ¶ 274.

²¹¹ *Id.* (internal quotation marks omitted).

relations that assist in the maintenance of the illegal situation created by Israel in the Occupied Palestinian Territory.”²¹²

64. Consequently, the United States and Canada are liable for their actions, including arms exports to Israel, that contribute to violations of the Convention, even if outside of its borders. This is so, *first*, under a direct theory of liability under extraterritorial applicability of the Convention, *second*, under an indirect theory of liability under a due diligence “obligation to protect” against violations of the Convention, and *third*, under an indirect theory of liability by virtue of third states’ responsibilities not to aid or recognize another State’s direct violations of the Convention.

VI. THE UNITED STATES AND CANADA HAVE VIOLATED THEIR OBLIGATIONS UNDER THE CONVENTION

65. The United States and Canada both signed the Convention in 1966. Canada subsequently ratified the Convention on October 14, 1970, and the U.S. ratified it on October 21, 1994.²¹³ As States Parties, the U.S. and Canada are legally bound to uphold the obligations set forth in the Convention’s provisions. The U.S. and Canada’s ongoing export of arms to Israel violates numerous provisions of the Convention based on the documented impact of Israeli military actions utilizing U.S. and Canadian weaponry against Palestinians in the OPT.

a. General Obligation of States Parties to Combat Racial Discrimination (Article 2)

66. Article 2 of the Convention requires States parties to “condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races.”²¹⁴ States Parties should not only refrain from acts of racial discrimination but also ensure that they do “not sponsor, defend or support” discriminatory actions by other actors.²¹⁵ This obligation includes the duty to take “*all appropriate means*” to prevent racial discrimination and to review and amend policies that may contribute to its perpetuation.²¹⁶ State Parties should also encourage “integrationist multiracial organizations and movements” and discourage “anything which tends to strengthen racial division.”²¹⁷

²¹² *Id.* ¶278.

²¹³ UN TREATY COLLECTION, INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION, https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-2&chapter=4&clang=_en.

²¹⁴ ICERD, art. 2 (1).

²¹⁵ *Id.* at art. 2(1)(a)-(b).

²¹⁶ *Id.* at art. 2(1)(c)-(d).

²¹⁷ *Id.* at art. 2(1)(e).

67. By supplying arms to Israel, the United States and Canada have not condemned the racial discrimination and violence against Palestinians. Rather, the United States and Canada have sponsored, defended and supported Israel's discriminatory practices against Palestinians, where Israeli authorities have perpetuated racial discrimination and violence.
68. The United States and Canada have a continued duty to take “all appropriate means” to prevent racial discrimination and review and amend the policies that may contribute to its perpetuation—and this includes policies on arms exports to Israel. As noted above, however, the United States has failed to use the safeguards available under its national laws designed to prevent foreign countries from using U.S. weapons exports to violate international human rights and humanitarian law.²¹⁸ Moreover, Canada has failed to address a glaring loophole in its laws and policies that allow the export of weapons - as well as parts and components of weapons - to the U.S. without any human rights analysis or oversight, after which such weapons can be, and very likely are, further transferred to states committing violations of international law. Thus, the United States and Canada cannot claim that they have used “all appropriate means” to prevent racial discrimination that violates the ICERD.
69. The United States and Canada’s continuous export of arms to Israel violates Article 2 of the Convention because these arms are used in military operations that have killed or injured tens of thousands of Palestinian civilians within a broader context of systemic racial discrimination and apartheid.

b. Prohibition of Segregation and Apartheid (Article 3)

70. Article 3 of the Convention requires States parties “to condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practice.”²¹⁹ The U.S. and Canada’s continued export of arms to Israel, which are used in military operations in the OPT, violates this obligation by supporting a system that exhibits characteristics of apartheid and racial segregation.

²¹⁸ The current legal framework is laden with weaknesses. The greatest weakness of the existing statutory framework is that they are for the most part permissive rather than directive. See Josh Paul, *Security Assistance and Arms Transfers: Human Rights Frameworks and Recommendation for Strengthening*, INST. FOR MIDDLE EAST UNDERSTANDING, https://imeu.org/uploads/files/Document_1.pdf. The statutory framework for arms transfers delegates substantial discretion to the President to shape and define the arms transfer process. *Id.* A further weakness of the statutory framework emerges from its lack of specificity. Several sections of law quoted above mandate that U.S. arms cannot be used for a purpose other than that for which they were provided or furnished, and such language is built into the agreements and contracts that partners sign when receiving arms from the United States. Gross violations of human rights—or even lesser but intentional human rights violations—would seem, under the spirit of the law, to be a purpose for which the U.S. should never provide weapons. Yet, these clauses have typically been read by the Executive so narrowly that they are effectively meaningless, at least as applied to Israel.

²¹⁹ ICERD, art. 3.

71. The CERD Committee and other UN bodies have emphasized that racial segregation, when maintained through two separate legal systems, road separation, and restrictive movement policies, can amount to apartheid if no corrective measures are taken.²²⁰ The CERD Committee has repeatedly expressed concern over Israel’s practices that effectively create two separate legal and social systems for Jewish settlers and Palestinians in the OPT.²²¹
72. These systems provide preferential treatment and greater access to resources for Jewish settlers while imposing movement restrictions, limited access to resources, and other barriers on Palestinians.²²² For example, as has been noted by the International Court of Justice, Israeli military law has governed Palestinians in the OPT for over 50 years while Israelis, including those who live in settlements in the OPT, are subject to Israel’s domestic law and enjoy the rights and privileges of citizens including due process and freedom of assembly, association, expression. Through the use of military law, Israel has been able to indefinitely suspend these rights with respect to Palestinians.²²³ The Committee has highlighted the “hermetic character” of segregation in the OPT, where Palestinians and Jewish settlers, despite living in close proximity, experience vastly different levels of access to infrastructure, land, and basic services.²²⁴
73. Since October 7, 2023, Israel has further perpetuated apartheid in Gaza through practices of killings, arbitrary detentions, torture of detainees, and imposition of conditions inimical to human life. These acts have taken place against a backdrop of Israeli policies and laws that reflect Israel’s overarching commitment to racial domination of Palestinians.
74. The ICJ Advisory Opinion of July 19, 2024 found Israel’s prolonged presence in the OPT to be unlawful, including under Article 3 of the ICERD.²²⁵ The U.S. and Canada’s continuous export of arms to Israel therefore violates Article 3 of the Convention as well as their *erga omnes* obligations because these arms are used to enforce policies and practices that segregate Palestinians and limit their access to essential services, thereby

²²⁰ Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined seventeenth to nineteenth reports of Israel*, U.N. Doc. CERD/C/ISR/CO/17-19, ¶ 22 (Jan. 27, 2020); *see also* Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination Israel*, U.N. Doc. CERD/C/ISR/CO/14-16, ¶ 24 (Apr. 3, 2012), *see also* G.A. Res. 66/78 (Jan. 12, 2012).

²²¹ U.N. Doc. CERD/C/ISR/CO/17-19, *supra* note 220, ¶ 22; *see also* U.N. Doc. CERD/C/ISR/CO/14-16, *supra* note 220, ¶ 24.

²²² U.N. Doc. CERD/C/ISR/CO/17-19, *supra* note 220, ¶ 22.

²²³ *E.g.*, ICJ Advisory Opinion on the Occupation of Palestine, ¶¶ 180-229; *see also* *Born Without Civil Rights: Israel’s Use of Draconian Military Orders to Repress Palestinians in the West Bank*, HUMAN RIGHTS WATCH (Dec. 17, 2019), <https://www.hrw.org/report/2019/12/17/born-without-civil-rights/israels-use-draconian-military-orders-repress>.

²²⁴ *Id.*; *see also* *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution*, HUMAN RIGHTS WATCH (Apr. 27, 2021), <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>.

²²⁵ ICJ Advisory Opinion on the Occupation of Palestine, ¶229.

supporting a system of racial segregation and apartheid. As with Article 2, the U.S. and Canada bear direct responsibility for their actions that violate the Convention in territories other than their own, as well as indirect responsibility for assisting other countries' violations. As various UN bodies have found, to address these violations of their obligations, the U.S. and Canada should, *inter alia*, stop providing military, financial, and logistical support to Israel while it continues to attack Palestinians in the Occupied Territories.²²⁶

75. As of February 4, 2025, it is estimated that at least 47,540 Palestinians have been killed, 111,618 have been injured, and 1.9 million people (about 90% of the population) have been displaced.²²⁷ As noted above, other reliable sources estimate that the number of Palestinians killed is much higher.²²⁸
76. Currently, thousands of Palestinians are arbitrarily detained and reportedly subjected to torture and other inhuman treatment without clear information on their whereabouts.²²⁹ According to the OHCHR, “[d]etainees, including women and children . . . have been subjected to prolonged blindfolding, the prolonged deprivation of food, sleep deprivation, water and medical attention, prolonged exposure to the cold, being forced to kneel on gravel, deliberate humiliation, blackmailing, electric shocks, being burnt with cigarettes, and given hallucinogenic pills.”²³⁰
77. Israeli forces have also subjected Palestinians to sexual violence. UN experts have expressed their concern as “Palestinian women and girls in detention have also been subjected to multiple forms of sexual assault, such as being stripped naked and searched by male Israeli army officers. At least two female Palestinian detainees were reportedly

²²⁶ See, e.g., Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, U.N. Doc. A/79/363, ¶¶ 71 (a-c) (Sept. 20, 2024); U.N. Office of the High Commissioner for Human Rights, UPDATE REPORT: Six-month update report on the human rights situation in Gaza: 1 November 2023 to 30 April 2024, ¶ 72 (Nov. 8, 2024).

²²⁷ UNRWA Situation Report #158 on the Humanitarian Crisis in the Gaza Strip and the West Bank, Including Jerusalem, UNRWA (Feb. 7, 2025), <https://www.unrwa.org/resources/reports/unrwa-situation-report-158-situation-gaza-strip-and-west-bank-including-east-jerusalem>.

²²⁸ See *supra* notes 14-16 and accompanying text; see also *10,000 people feared buried under the rubble in Gaza*, UN: NEWS (May 2, 2024), <https://news.un.org/en/story/2024/05/1149256>.

²²⁹ See *One Year of Unimaginable Suffering Since the 7 October Attack*, OCHA (Oct. 7, 2024), <https://www.ochaopt.org/content/one-year-unimaginable-suffering-7-october-attack>.

²³⁰ OHCHR, THEMATIC REPORT: DETENTION IN THE CONTEXT OF THE ESCALATION OF HOSTILITIES IN GAZA (OCTOBER 2023-JUNE 2024), at ¶ 40 (2024), <https://www.ohchr.org/sites/default/files/documents/countries/opt/20240731-Thematic-report-Detention-context-Gaza-hostilities.pdf>.

raped while others were reportedly threatened with rape and sexual violence.”²³¹ On July 29, 2024, 10 Israeli reservists were arrested for gang raping a Palestinian prisoner.²³²

c. Right to Security of Person and Protection by the State from Violence or Bodily Harm (Article 5(b))

78. Article 5(b) of the Convention guarantees the right of everyone “to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.”²³³
79. As stated above, as of February 4, 2025, Israeli forces have killed at least 47,500 Palestinians—including an estimated 13,319 children—and injured more than 111,000 people,²³⁴ with the actual death toll believed to be significantly higher.²³⁵ In February 2025, a multinational team of medical experts estimated that 64,260 Palestinians had been killed “due to traumatic injury”²³⁶ from October 7, 2023 to June 30, 2024.
80. Israel’s military campaign in Gaza has directly targeted the Palestinian people as a distinct national, ethnic, racial and religious group. Israel’s actions in Gaza have been predicated

²³¹ *UN Experts Appalled by Reported Human Rights Violations Against Palestinian Women and Girls*, UN: PRESS RELEASES (Feb. 19, 2024), <https://www.ohchr.org/en/press-releases/2024/02/israelopt-un-experts-appalled-reported-human-rights-violations-against>.

²³² See Simon Speakman Cordall, ‘Everything is Legitimate’: Israeli Leaders Defend Soldiers Accused of Rape, AL JAZEERA (Aug. 9, 2024), <https://www.aljazeera.com/news/2024/8/9/everything-is-legitimate-israeli-leaders-defend-soldiers-accused-of-rape>.

²³³ ICERD, art. 5(b).

²³⁴ U.N. Off. for Coordination of Humanitarian Affs. (OCHA), *Reported Impact Snapshot: Gaza Strip* (Feb. 4, 2025), <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-4-february-2025>.

²³⁵ It is widely accepted that the death count in Gaza is underreported, by as much as 40%, with many persons missing and believed to be buried under the rubble. See, e.g., *Gaza death toll has been significantly underreported, study finds*, CNN (Jan. 9, 2025), <https://www.cnn.com/2025/01/09/middleeast/gaza-death-toll-underreported-study-intl/index.html>; see also Zeina Jamaluddine, Hanan Abukamail, Sarah Aly, Oona M R Campbell & Francesco Checchi, *Traumatic injury mortality in the Gaza Strip from Oct 7, 2023, to June 30, 2024: a capture–recapture analysis*, THE LANCET (Feb. 8, 2025), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)02678-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)02678-3/fulltext); Rasha Khatib, Martin McFee & Salim Yusuf, *Counting the Dead in Gaza: Difficult but Essential*, 404 THE LANCET (July 20, 2024), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)01169-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)01169-3/fulltext).

²³⁶ Zeina Jamaluddine, Hanan Abukamail, Sarah Aly, Oona M R Campbell, & Francesco Checchi, *Traumatic injury mortality in the Gaza Strip from Oct 7, 2023, to June 30, 2024: a capture–recapture analysis*, THE LANCET (Feb. 8, 2025), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)02678-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)02678-3/fulltext).

on dehumanizing rhetoric²³⁷ and demonstrated genocidal intent.²³⁸ Statements made by Israeli officials reflect the racial, national and ethnic distinctions that underpin Israel's military campaign. There can be no doubt that U.S. and Canadian arms exports constitute violations of Article 5(b) in facilitating²³⁹ the mass destruction of Palestinian life, including security of the person.

d. Right to Freedom of Movement and Residence and Right to Leave Any Country, Including One's Own, and to Return to One's Country (Articles 5(d)(i)-(ii))

81. Under Article 5(d)(i)-(ii) of the Convention, States parties are required to ensure that all individuals enjoy the “right to freedom of movement and residence” and the “right of individuals to leave any country, including one's own, and to return to one's country.”²⁴⁰ Arms exports by the U.S. and Canada have enabled Israel to impose a life-threatening blockade on Gaza, together with military checkpoints throughout the OPT, that restrict the freedom of movement for Palestinians while allowing unfettered freedom of movement for Israelis, including settlers living in the OPT.

82. The CERD Committee has expressed serious concerns about the extensive movement restrictions imposed solely on Palestinians, including the construction of the separation wall, roadblocks, separate roads for settlers, and a restrictive permit regime, which together create significant obstacles to Palestinians' ability to move freely within and outside of Gaza and the West Bank.²⁴¹ The blockade of Gaza has imposed significant hardships on the civilian population in the territory, making it difficult or impossible for Palestinians to

²³⁷ Emanuel Fabian, Defense minister announces ‘complete siege’ of Gaza: No power, food or fuel, THE TIMES OF ISRAEL (Oct. 9, 2023), https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/?trk=public_post_comment-text (quoting Israeli Defense Minister Yoav Gallant saying “I have ordered a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel, everything is closed” and “We are fighting human animals and we are acting accordingly.”); *Netanyahu: We will target Hamas everywhere it operates; Gazans should ‘get out now,’* THE TIMES OF ISRAEL (Oct. 7, 2023), https://www.timesofisrael.com/liveblog_entry/netanyahu-we-will-target-hamas-everywhere-it-operates-gazans-should-get-out-now/ (quoting Prime Minister Netanyahu as ordering more than two million Palestinians in Gaza to “get out now,” threatening that Israel “will operate everywhere and with full force”).

²³⁸ Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, *Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese - Genocide as colonial erasure*, U.N. Doc. A/79/384, at ¶ 1 (Oct. 1, 2024).

²³⁹ Yossi Melman, *Israeli Air Force Official: Without U.S. Aid, Israel Couldn't Fight in Gaza Beyond a Few Months*, HAARETZ (Sept. 2, 2024), <https://www.haaretz.com/israel-news/2024-09-02/ty-article-magazine/.premium/without-u-s-aid-israel-would-have-struggled-to-fight-in-gaza-beyond-a-few-months/00000191-aec2-d875-a3bb-aed7e2e30000>.

²⁴⁰ ICERD, arts. 5(d)(i)-(ii).

²⁴¹ U.N. Doc. CERD/C/ISR/CO/14-16, *supra* note 220, ¶ 24; U.N. Doc. CERD/C/ISR/CO/17-19, ¶¶ 44-45.

obtain access to basic services, such as education, land, water, medical goods, and other natural resources.²⁴²

83. These restrictions affect the Palestinian population exclusively, highlighting their discriminatory nature. The Human Rights Council indicated that the restrictions and checkpoints “have been transformed into structures akin to permanent border crossings, other physical obstacles and a permit regime, which are applied in a discriminatory manner affecting the Palestinian population only.”²⁴³
84. Within the West Bank, including East Jerusalem, 86 new obstacles to Palestinians’ freedom of movement have been installed since October 7, 2023 for a total of 793 obstacles, including checkpoints, earth mounds, road gates, road blocks, and trenches—many with additional restrictions of limited hours, gate closures, and even facial recognition technology.²⁴⁴ More than a third of these barriers prevent direct access between Palestinian towns and villages and eight major roads within the West Bank.²⁴⁵
85. Israel has been imposing an illegal land, sea and air blockade on the occupied Gaza Strip for 17 years, preventing the movement of people from and into Gaza.²⁴⁶ Since October 7, 2023, the blockade has only tightened, now amounting to a “complete siege” on Gaza.²⁴⁷ In order to monitor the blockade, Israeli forces patrol Gaza's maritime boundaries and airspace, ensuring the blockade's enforcement. For their air patrols, Israeli forces use a

²⁴² U.N. Doc. CERD/C/ISR/CO/17-19, *supra* note 220, ¶¶ 44-45; *see also* U.N. Doc. A/HRC/RES/25/29, ¶ 7; Human Rights Committee, *Concluding observations on the fifth periodic report of Israel*, U.N. Doc. CCPR/C/ISR/CO/5, ¶¶ 14-15. (May 5, 2022); Committee on Economic, Social and Cultural Rights, *Concluding observations of the Committee on Economic, Social and Cultural Rights: Israel*, U.N. Doc. E/C.12/ISR/CO/3, at ¶ 12 (Dec. 16, 2011); Human Rights Council, *Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, Report of the United Nations High Commissioner for Human Rights*, U.N. Doc. A/HRC/49/85, ¶ 10 (Apr. 28, 2022).

²⁴³ Human Rights Council Res. 28/27, *Human rights situation in the Occupied Palestinian Territory, including East Jerusalem*, U.N. Doc. A/HRC/RES/28/27, at Preamble (Apr. 13, 2015). Israeli settlers in the OPT also enjoy access to highways and roads that Palestinians are barred from using, and settlers are often exempt from the numerous checkpoints and barriers that impede Palestinian travel. *See id.*

²⁴⁴ OCHA, FACT SHEET: MOVEMENT AND ACCESS IN THE WEST BANK (August 2024), <https://www.unocha.org/publications/report/occupied-palestinian-territory/fact-sheet-movement-and-access-west-bank-august-2024>; AMNESTY INTERNATIONAL, ISRAEL AND OCCUPIED PALESTINIAN TERRITORIES 2023 (2023), <https://www.amnesty.org/en/location/middle-east-and-north-africa/middle-east/israel-and-the-occupied-palestinian-territory/report-israel-and-the-occupied-palestinian-territory/>.

²⁴⁵ *See id.*

²⁴⁶ *See* AMNESTY INT’L, AMNESTY INTERNATIONAL USA SUBMISSION TO NSM-20 UNLAWFUL USE OF US-MADE MUNITIONS AND VIOLATIONS OF INTERNATIONAL LAW BY ISRAEL SINCE JANUARY 2023, at 10 (2024) [AMNESTY US-MADE MUNITIONS REPORT].

²⁴⁷ *See Israel/OPT: Israel must lift illegal and inhuman blockade on Gaza as power plant runs out of fuel*, AMNESTY INT’L (Oct. 12, 2023), <https://www.amnesty.org/en/latest/news/2023/10/israel-opt-israel-must-lift-illegal-and-inhumane-blockade-on-gaza-as-power-plant-runs-out-of-fuel/>.

wide range of fighter aircraft, including the U.S.-manufactured F-35s (known locally as Adir), F16s and F15s.²⁴⁸

86. U.S.- and Canadian-supplied arms used in Israeli operations have therefore enabled the blockade and other restrictions on Palestinians' movement, supporting infrastructure and enforcement efforts that impose a discriminatory separation between Palestinian and Israeli populations. By continuing to export arms to Israel despite clear evidence that these resources are used to maintain and enforce the Gaza blockade and otherwise restrict Palestinians' freedom of movement, the United States and Canada have supported discriminatory policies in violation of Article 5(d)(i) & (ii). Again, the U.S. and Canada bear direct responsibility for these violations, as well as indirect responsibility for Israel's violations that the U.S. and Canada have assisted by continuously exporting arms.

e. Right to Own Property and to Housing (Article 5(e)(iii)).

87. Article 5(d)(v) of the Convention guarantees the "right to own property" and Article 5(e)(iii) protects the "right to housing."²⁴⁹ U.S. and Canadian arms exports destroy homes and restrict Palestinians' access to land, housing, and resources in the OPT, including Gaza. The CERD Committee has raised concerns about the continued confiscation and expropriation of Palestinian land and the destruction of buildings and homes.²⁵⁰

88. The General Assembly has also highlighted "the widespread destruction of property and vital infrastructure, ongoing settlement activities and construction of the wall" that result in collective punishment of Palestinians.²⁵¹ Other UN bodies have indicated the impact of illegal Israeli settlers confiscating Palestinian lands resulting in lack of access to roads, infrastructure, land, property, and housing.²⁵²

89. The United States and Canada's arms are also used to destroy Palestinian homes in Gaza. By continuing to supply arms to Israel, the U.S. and Canada not only support Israel's discriminatory framework, which severely limits Palestinian property rights and access to adequate housing, but also directly facilitates the destruction of Palestinian homes.

²⁴⁸ Human Rights Council, *Detailed findings on the military operations and attacks carried out in the Occupied Palestinian Territory from 7 October to 31 December 2023*, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, U.N. Doc. A/HRC/56/CRP.4, at ¶ 78 (June 10, 2024).

²⁴⁹ ICERD, art. 5(d)(v) & 5(e)(iii).

²⁵⁰ U.N. Doc. CERD/C/ISR/CO/17-19, *supra* note 220, at ¶ 42.

²⁵¹ G.A. Res. 67/118, at Preamble, ¶ 4 (Jan. 14, 2013); *see also* G.A. Res. 68/80 (Dec. 16, 2013); G.A. Res. 69/90 (Dec. 16, 2014); G.A. Res. 70/87 (Dec. 15, 2015); G.A. Res. 71/95 (Dec. 23, 2016).

²⁵² G.A. Res. 65/104 (Jan. 20, 2011); U.N. Doc. CCPR/C/ISR/CO/5, *supra* note 242, at ¶¶ 14-15; *see also* S. C. Res. 2334 (Dec. 23, 2016); Human Rights Council Res. 31/36, U.N. Doc. A/HRC/RES/31/36 (Apr. 20, 2016); G.A. Res. 75/97 (Dec. 18, 2020).

90. Amnesty International has reported that Joint Direct Attack Munitions (JDAMs) and Small Diameter Bombs (SDBs), both produced by the U.S. company Boeing, have been used by Israel to destroy Palestinian homes as a form of collective punishment of Palestinians.²⁵³ On May 9, 2023, Israeli forces used U.S.-made precision guided bombs to attack densely populated urban areas in Gaza past midnight when families were asleep, resulting in the destruction of Palestinian homes and the death of 11 civilians.²⁵⁴ Experts identified the bomb as a GBU-39 Small Diameter Bomb manufactured by Boeing and exported to Israel by the U.S.²⁵⁵ A few days later, an Israeli fighter jet utilized a JDAM, manufactured by Boeing, to destroy a four-story building in a refugee camp that was home to 42 people, including five who were living with disabilities.²⁵⁶ In October 2023, U.S.-made JDAMs were once again used in two deadly, unlawful airstrikes on Palestinian homes, resulting in the death of 43 civilians—19 children, 14 women and 10 men.²⁵⁷ In January 2024, U.S.-made GBU-39 Small Diameter Bombs were used to strike a Nofal family five-story building located in Tal Al-Sultan, resulting in the destruction of civilian homes and the death of 18 civilians.²⁵⁸ The blockade of the Gaza Strip—enforced with the aid of the United States—has restricted Palestinians’ ability to rebuild homes that have been destroyed in the conflict.²⁵⁹
91. In Gaza, 1.9 million people (about 90% of the population) have been displaced.²⁶⁰ After October 7, 2023, many people sought shelter with family members in crowded homes, putting entire generations of families at risk of decimation.²⁶¹ The OHCHR has documented a pattern of women, children, older persons, and entire families killed together as they seek refuge in their homes or makeshift shelters.²⁶² As of August 31, 2024, OHCHR had documented “200 families that had lost between 5 and 9 members, 172 families that had lost between 10 and 19 members, 69 families that had lost between 20 and 29 family members, and 43 families that had lost more than 30 members.”²⁶³ From September 1 to November 18, 2024, there were an additional 19 incidents in which victims from at least 54 families were killed.²⁶⁴ In the deadliest attack during that time, an Israeli airstrike

²⁵³ See AMNESTY US-MADE MUNITIONS REPORT, *supra* note 246, at 3.

²⁵⁴ See *id.* at 4.

²⁵⁵ See *id.*

²⁵⁶ See *id.* at 5.

²⁵⁷ See *id.*

²⁵⁸ See *id.* at 7.

²⁵⁹ U.N. Doc. CERD/C/ISR/CO/14-16, *supra* note 220, at ¶ 26.

²⁶⁰ *Reported impact snapshot, Gaza Strip*, OCHA(Nov. 5, 2024), <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-5-november-2024>.

²⁶¹ OHCHR, SIX-MONTH UPDATE REPORT ON THE HUMAN RIGHTS SITUATION IN GAZA:

1 NOVEMBER 2023 TO 30 APRIL 2024, at ¶ 14 (Nov. 8, 2024), <https://www.ohchr.org/en/documents/reports/six-month-update-report-human-rights-situation-gaza-1-november-2023-30-april-2024>.

²⁶² *Id.* at ¶ 16.

²⁶³ *Id.* at ¶ 19.

²⁶⁴ Airwars, *Israel and Gaza 2023, Civilian Casualties, Families*, <https://airwars.org/conflict/israel-and-gaza-2023/> (last visited Feb. 17, 2025).

annihilated at least 10 individual families, killing between 129-254 civilians, including at least 42 children and 28 women.²⁶⁵ At least 16 of the children were 10 years old or younger.²⁶⁶

92. Children are the main victims in these attacks.²⁶⁷ Of the victims verified since October 7, 2023, the youngest was only a one-day-old boy and the oldest was a 97-year-old woman.²⁶⁸ As of February 3, 2025, Al Jazeera estimated that 17,429 Palestinian children have been killed in Gaza since October 7, 2023.²⁶⁹ On June 25, 2024, UNRWA Commissioner-General Phillippe Lazzarini stated that thousands of Palestinian children in Gaza have lost arms, hands, and legs.²⁷⁰ He reported that an average of 10 Palestinian children have at least one leg amputated every day, constituting thousands of children losing one or both legs after less than one year of the war.²⁷¹

93. The United States and Canada's continuous export of arms to Israel violates Articles 5(d)(v) and 5(e)(iii) of the Convention because these arms are used to destroy homes and restrict property and housing rights of Palestinians in the OPT. The U.S. and Canada bear direct extraterritorial responsibility as well as indirect responsibility for these violations.

f. Right to Public Health, Medical Care, Social Security, and Social Services (Article 5(e)(iv))

94. Article 5 of the Convention enshrines the "right to public health, medical care, social security and social services."²⁷² The U.S. and Canadian export of arms to Israel violates this obligation by not only enabling a system that impedes Palestinians' right to health, but also directly destroying hospitals and limiting basic medical care.

²⁶⁵ Airwars, *Israel and Gaza 2023, Civilian Casualties*, ISPT291024b, Incident Date October 28-29, 2024, <https://airwars.org/civilian-casualties/ispt291024b-october-28-2024/> (last visited Feb. 17, 2025).

²⁶⁶ *Id.*

²⁶⁷ OHCHR, SIX-MONTH UPDATE REPORT ON THE HUMAN RIGHTS SITUATION IN GAZA:

1 NOVEMBER 2023 TO 30 APRIL 2024, at ¶ 15 (Nov. 8, 2024), <https://www.ohchr.org/en/documents/reports/six-month-update-report-human-rights-situation-gaza-1-november-2023-30-april-2024>

²⁶⁸ *Id.*

²⁶⁹ AJ Labs, *Israel-Gaza war in maps and charts: Live tracker*, AL JAZEERA (Feb. 3, 2025, 11:51AM), <https://www.aljazeera.com/news/longform/2023/10/9/israel-hamas-war-in-maps-and-charts-live-tracker> (citing the Gaza Government Information Office).

²⁷⁰ *Press conference: Update on the Occupied Palestinian Territory - 25 June 2024*, UN OFFICE AT GENEVA: MULTIMEDIA NEWSROOM, <https://www.unognewsroom.org/teleprompter/en/2242/unrwa-press-conference-update-on-the-occupied-palestinian-territory-25-june-2024/6749>; *UNRWA reports 10 children lose legs every day in Gaza*, LE MONDE (Jun. 25, 2024), https://www.lemonde.fr/en/international/article/2024/06/25/unrwa-reports-10-children-lose-legs-every-day-in-gaza_6675697_4.html#.

²⁷¹ *Id.*

²⁷² ICERD, art. 5(e)(iv).

95. The CERD Committee has expressed concern over Israel’s discriminatory laws that limit Palestinians’ access to social and economic benefits and result in poorer health outcomes for Palestinian and Bedouin populations, including higher infant mortality rates and shorter life expectancy compared to the Jewish population.²⁷³
96. The CERD Committee has highlighted that Israel's blockade of the Gaza Strip continues to severely restrict access to healthcare, clean water, and other basic services for Palestinians.²⁷⁴ This blockade prevents the import of essential medical supplies and restricts the movement of individuals needing medical care, resulting in delays or denials of permits for Palestinians to seek treatment outside Gaza and the West Bank.²⁷⁵ The Committee on Economic, Social, and Cultural Rights has underscored that these restrictions contribute to the poor quality of healthcare services in Gaza, as medical equipment is often limited, and essential services such as safe drinking water are insufficient due to destroyed infrastructure.²⁷⁶
97. The CERD Committee and various UN bodies have emphasized that the discriminatory allocation of health and social resources, coupled with restrictions on movement and access, effectively denies Palestinians their right to public health and essential services.²⁷⁷
98. Since October 7, 2023, the public health crisis has intensified. Famine is no longer a risk, but a reality.²⁷⁸ Two days after the October 7 attack, Israel’s Minister of Defense Yoav Gallant announced a “complete siege on Gaza... No electricity, no food, no water, no gas – it's all closed,” propelling Gaza into total darkness.²⁷⁹ Hospitals were deprived of vital medical equipment and access to clean water.²⁸⁰ Following various attacks, Israeli forces denied vital medical assistance to Palestinians and attacked paramedics who attempted to

²⁷³ U.N. Doc. CERD/C/ISR/CO/17-19, *supra* note 220, at ¶ 38.

²⁷⁴ *See id.* at ¶ 44.

²⁷⁵ *See id.*

²⁷⁶ Committee on Economic, Social and Cultural Rights, *Concluding observations on the fourth periodic report of Israel*, U.N. Doc. E/C.12/ISR/CO/4, at ¶ 58 (Nov. 12, 2019); Committee on Economic, Social and Cultural Rights, *Concluding observations of the Committee on Economic, Social and Cultural Rights: Israel*, U.N. Doc. E/C.12/ISR/CO/3, at ¶ 29 (Dec. 16, 2011).

²⁷⁷ Committee on Economic, Social and Cultural Rights, *Report of the Ad Hoc Conciliation Commission on the inter-State communication submitted by the State of Palestine against Israel under article 11 of the International Convention on the Elimination of All Forms of Racial Discrimination*, U.N. Doc. CERD/C/113/3/Add.2, at ¶ 46 (Aug. 21, 2024).

²⁷⁸ *See* Kathleen Magramo, Mitchell McCluskey & Jennifer Hansler, ‘Full-blown famine’ happening in Gaza, WFP warns, amid fresh push for truce, CNN (May 5, 2024, 7:46 AM), <https://edition.cnn.com/2024/05/05/middleeast/gaza-famine-world-food-programme-intl-hnk/index.html>. 246

²⁷⁹ *Israel/OPT: Israel must lift illegal and inhuman blockade on Gaza as power plant runs out of fuel*, AMNESTY INT’L (Oct. 12, 2023), <https://www.amnesty.org/en/latest/news/2023/10/israel-opt-israel-must-lift-illegal-and-inhumane-blockade-on-gaza-as-power-plant-runs-out-of-fuel/>.

²⁸⁰ AMNESTY US-MADE MUNITIONS REPORT, *supra* note 246, at 15.

provide life-saving care.²⁸¹ According to the Ministry of Health of the State of Palestine, the number of hospital beds available to injured Palestinians has decreased by 80 percent as of April 24, 2024.²⁸²

99. On March 28, 2024, the International Court of Justice issued provisional measures ordering Israel to “take all necessary and effective measures to ensure, without delay, in full cooperation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary.”²⁸³ Israel has largely failed to comply with these measures. For their part, the United States and Canada have continued to provide Israel with military exports that have exacerbated the public health crisis in Gaza.

100. The United States and Canada have directly undermined public health in the OPT through the export of weapons that are used to target hospitals and other health care facilities. For example, according to Amnesty International, a U.S.-made GBU-32/31 bomb destroyed a medical facility in the al-Matayna neighborhood in Deir al-Balah on May 12, 2023.²⁸⁴

101. The entire healthcare system in Gaza has been decimated, with healthcare workers reporting significant attacks on hospitals, overwhelmed systems, and shortages of key supplies and personnel. Almost all of the hospitals in Gaza have been at least partially attacked or destroyed since October 7, 2023, and many major hospitals have been rendered completely non-functional for large periods of the conflict.²⁸⁵ The World Health

²⁸¹ See AMNESTY US-MADE MUNITIONS REPORT, *supra* note 246, at 13; see also *Shocking spike in use of unlawful lethal force by Israeli forces against Palestinians in the occupied West Bank*, AMNESTY INT’L (Feb. 5, 2024), <https://www.amnesty.org/en/latest/news/2024/02/shocking-spike-in-use-of-unlawful-lethal-force-by-israeli-forces-against-palestinians-in-the-occupied-west-bank/#:~:text=The%20organization%20investigated%20four%20emblematic,20%20Palestinians%2C%20including>.

²⁸² OHCHR, SIX-MONTH UPDATE REPORT ON THE HUMAN RIGHTS SITUATION IN GAZA:

1 NOVEMBER 2023 TO 30 APRIL 2024, at ¶ 41 (Nov. 8, 2024), <https://www.ohchr.org/en/documents/reports/six-month-update-report-human-rights-situation-gaza-1-november-2023-30-april-2024>.

²⁸³ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Order, 2024 I.C.J., ¶ 45 (Mar. 2024).

²⁸⁴ See AMNESTY US-MADE MUNITIONS REPORT, *supra* note 246, at 4.

²⁸⁵ For example, at various points during the conflict, some of the largest hospitals in Gaza, including Al Shifa Hospital, Al Nasser Hospital, Kamal Adwan Hospital, Indonesian Hospital, Al Awda Hospital and European Gaza Hospital have all come under attack, forced evacuations, or a total siege by Israeli Defense Forces. See generally, Forensic Architecture, *A Cartography of a Genocide*, (Oct. 25, 2024) <https://forensic-architecture.org/investigation/a-cartography-of-genocide>. The University of Chicago Law School Global Human Rights Clinic has documented significant impacts on the provision of healthcare in Gaza through interviews with more than 45 international doctors who provided volunteer medical aid during the conflict (notes on file).

Organization (WHO) has documented over 1,100 attacks on doctors, patients, clinics, and health infrastructure in the OPT, fueling a public health crisis.²⁸⁶ Of these attacks, 330 were conducted with the use of heavy weapons.²⁸⁷ Even emergency vehicles have been attacked.²⁸⁸

102. Over the course of thirteen days in October 2023, Israeli forces targeted and raided the largest hospital in the Gaza Strip, the Al-Shifa Hospital, killing 32 people, including three newborn babies in the first three days.²⁸⁹ The hospital sheltered approximately 1,500 patients, 1,500 medical workers, and 15,000 displaced people.²⁹⁰ Five months later, Israeli forces destroyed what was left of the hospital, resulting in over 30,000 people “besieged” in the hospital without the possibility of rescue due to the intensity of the fire and the targeting of visible people in windows.²⁹¹

103. Israeli forces have attacked other hospitals through the Gaza Strip. On November 11, 2023, Israeli tanks surrounded the Indonesian Hospital in the Northern Gaza Strip and launched artillery at sheltered medical staff, killing at least 12 Palestinians and injuring

²⁸⁶ *Surveillance System for Attacks on Health Care (SSA) Database, Date Range: October 7, 2024 – November 14, 2024*, WORLD HEALTH ORG.,

<https://extranet.who.int/ssa/Index.aspx> (last visited Nov. 15, 2024); see also *1000 Attacks on Health Care in the Occupied Palestinian Territories (OPT) Devastate Health System, Demand Accountability: PHR*, PHYSICIANS FOR HUMAN RIGHTS (Aug. 2, 2024), <https://phr.org/news/1000-attacks-on-health-care-in-the-occupied-palestinian-territories-opt-devastate-health-system-demand-accountability-phr/>.

²⁸⁷ *Surveillance System for Attacks on Health Care (SSA) Database, Date Range: October 7, 2024 – November 14, 2024*, WORLD HEALTH ORGANIZATION,

<https://extranet.who.int/ssa/Index.aspx> (last visited Nov. 15, 2024).

²⁸⁸ See *MSF calls for investigation into Israeli attack on emergency vehicles in Gaza*, AL JAZEERA (Dec. 2, 2023), <https://www.aljazeera.com/news/liveblog/2023/12/2/israel-hamas-war-live-israeli-bombs-rain-down-on-gaza-after-truce-collapse?update=2528524>; see also *Doctors Without Borders / Médecins Sans Frontières (@MSF_canada)*, X, (Dec. 1, 2023, 4:52 PM),

https://x.com/MSF_canada/status/1730706531950215568?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1730706531950215568%7Ctwgr%5E8b0dca23929478d0d2dd6c4d9a34706cd7b0576c%7Ctwcon%5Esl&ref_url=https%3A%2F%2Fwww.aljazeera.com%2Fnews%2Fliveblog%2F2023%2F12%2F2%2Fisrael-hamas-war-live-israeli-bombs-rain-down-on-gaza-after-truce-collapse.

²⁸⁹ Louisa Loveluck, Evan Hill, Jonathan Baran, Jarrett Ley & Ellen Nakashima, *The case of al-Shifa: Investigating the assault on Gaza’s largest hospital*, WASHINGTON POST: ISRAEL-GAZA WAR, (Dec. 21, 2023, 9:00 AM), <https://www.washingtonpost.com/world/2023/12/21/al-shifa-hospital-gaza-hamas-israel/>; Nidal Al-Mughrabi & Dan Williams, *Israeli tanks outside Gaza hospital, Biden hopes for ‘less intrusive’ action*, REUTERS (Nov. 13, 2023, 6:41 PM), <https://www.reuters.com/world/middle-east/largest-gaza-hospital-not-functioning-amid-israeli-assault-2023-11-12/>.

²⁹⁰ Isabel DeBre, *In wars, hospitals have special protection under international law. How does that apply in Gaza?*, PBS NEWS: WORLD (Nov. 12, 2023, 10:19 AM), <https://www.pbs.org/newshour/world/in-wars-hospitals-have-special-protection-under-international-law-how-does-that-apply-in-gaza>.

²⁹¹ See Jason Burke, *Fierce clashes between IDF and Hamas after Israel takes control of key hospital*, THE GUARDIAN: ISRAEL-GAZA WAR (Mar. 18, 2024, 2:06 PM), <https://www.theguardian.com/world/2024/mar/18/clashes-idf-hamas-israel-takes-control-key-al-shifa-hospital>.

many others.²⁹² A maternity ward at the Kamal Adwan Hospital was bombed, killing two women and two children.²⁹³ A 12-year-old Palestinian girl was shot in the head while she was recovering in her hospital bed at Nassar Hospital in the Southern Gaza Strip.²⁹⁴ The last functioning hospital in central Gaza, Al-Aqsa Hospital, was attacked via airstrike on March 31, 2024.²⁹⁵

104. Given the massive scale of U.S. military aid to Israel, it is reasonable to presume that U.S. military aid has facilitated Israeli attacks on medical facilities, even if U.S.-made weapons were not used in the attacks.
105. The United States and Canada’s continuous export of arms to Israel violates Article 5(e)(iv) of the Convention because these arms have been used to destroy hospitals and health care facilities and kill essential medical personnel, exacerbating a public health crisis. The U.S. and Canada bear direct extra-territorial responsibility as well as indirect responsibility for Israel’s violations.

g. Right to Education and Training (Article 5(e)(v))

106. Article 5(e)(v) of the Convention enshrines the “right to education and training” without discrimination.²⁹⁶ The continued U.S. and Canadian export of arms to Israel, which supports military operations and enforcement measures in the OPT, supports a system that discriminates against Palestinians’ access to education and directly destroys schools and universities.
107. The CERD Committee has expressed concern over the existence of segregated educational systems for Jewish and non-Jewish (Palestinian) communities in the region, with Palestinian students facing inferior conditions and limited resources.²⁹⁷ The

²⁹² WORLD HEALTH ORGANIZATION: EASTERN MEDITERRANEAN REGION, *WHO appalled by latest attack on Indonesian Hospital in Gaza*, WORLD HEALTH ORGANIZATION: MEDIA CENTRE (Nov. 20, 2024), <https://www.emro.who.int/media/news/who-appalled-by-latest-attack-on-indonesian-hospital-in-gaza.html>.

²⁹³ *Humanitarian atrocities committed by the Israeli army at Kamal Adwan Hospital in northern Gaza are subject to international investigation*, EURO-MED HUMAN RIGHTS MONITOR (Dec. 16, 2023), <https://euromedmonitor.org/ar/article/6037>.

²⁹⁴ *Israeli tank-fired shell kills Palestinian girl in Gaza hospital (Defense for Children International Palestine)*, DEF. FOR CHILDREN INT’L PALESTINE (Dec. 18, 2023), <https://www.dci-palestine.org/israeli-tank-fired-shell-kills-palestinian-girl-in-gaza-hospital>.

²⁹⁵ Rushdi Abualouf & George Wright, *Israel Gaza: Journalists injured in al-Aqsa hospital air strike*, BBC NEWS (Mar. 31, 2024), <https://www.bbc.com/news/world-middle-east-68704280>. Due to the lack of access for human rights investigators, the full scale of attacks on hospitals and health care facilities is unknown. This is evidenced by the discovery of mass graves of hundreds of corpses at two hospitals, al-Nasser and al-Shifa, in Gaza. *See Gaza: Discovery of mass graves highlights urgent need to grant access to independent human rights investigators*, AMNESTY INT’L (Apr. 24, 2024), <https://www.amnesty.org/en/latest/news/2024/04/gaza-discovery-of-mass-graves-highlights-urgent-need-to-grant-access-to-independent-human-rights-investigators/>.

²⁹⁶ ICERD, art. 5(e)(v).

²⁹⁷ U.N. Doc. CERD/C/ISR/CO/17-19, *supra* note 220, at ¶ 21.

Committee has also urged Israel to ensure Palestinians’ access to education, particularly in Gaza, where the blockade has created severe obstacles to compliance with the Convention’s obligations.²⁹⁸

108. Following October 7, 2023, every school in the Gaza Strip has been shuttered. Despite UNICEF attempting to set up Temporary Learning Spaces, 625,000 children are currently being denied the right to education.²⁹⁹ Over 95% of all schools in Gaza have been partially or completely destroyed, and at least 87% will require significant reconstruction in order to reopen.³⁰⁰
109. On December 15, 2023, Israeli forces fired missiles at the Farhana School in the Southern Gaza Strip.³⁰¹ A month later the last remaining university in Gaza, Israa University, was destroyed by the Israeli military.³⁰² Within the first six months of the attacks, more than 5,479 students, 261 teachers and 95 university professors were killed, and over 7,819 students and 756 teachers were injured.³⁰³ In September 2024 alone, 10 schools—including Az Zaytun School in Gaza City, Kafar Qasam School also in Gaza City, and Khalid Bin Waleed school in An Nuseirat—were hit, killing 86 children, teachers or other personnel.³⁰⁴
110. Given the massive scale of U.S. military aid to Israel, it is reasonable to presume that U.S. military aid has facilitated Israeli attacks on schools and universities.
111. The United States and Canada’s continuous export of arms to Israel violates Article 5(e)(v) of the Convention because these arms are used to destroy schools and universities while perpetuating a system that denies the right to education to Palestinians. The U.S. bears direct extra-territorial responsibility as well as indirect responsibility for Israel’s violations.

h. Right to Freedom of Thought, Conscience and Religion (Article 5 (d)(vii))

²⁹⁸ *Id.* at ¶ 45.

²⁹⁹ *45,000 first graders unable to start the new school year in the Gaza Strip: UNICEF*, UNICEF: PRESS RELEASE (Sept. 9, 2024), <https://www.unicef.org/press-releases/45000-first-graders-unable-start-new-school-year-gaza-strip-unicef>.

³⁰⁰ *Regular attacks put Gaza schools-turned-shelters on the “frontlines of war”*, UNICEF (Nov 8, 2024), <https://www.unicef.org/press-releases/regular-attacks-put-gaza-schools-turned-shelters-frontlines-war>.

³⁰¹ *Al Jazeera journalist Samer Abudaqa killed in Israeli attack in Gaza*, AL JAZEERA: NEWS (Dec. 15, 2023), <https://www.aljazeera.com/news/2023/12/15/two-al-jazeera-journalists-wounded-in-israeli-attack-in-southern-gaza>.

³⁰² *UN experts deeply concerned over ‘scholasticide’ in Gaza*, UN: PRESS RELEASE (Apr. 18, 2024), <https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>.

³⁰³ *Id.*

³⁰⁴ *Israeli military must stop attacking schools that provide the last shelter to Palestinians in Gaza*, OHCHR: PRESS RELEASE (Sept. 23, 2024), <https://www.un.org/unispal/document/press-release-ohchr-23sep24/>.

112. Article 5(d)(vii) of the Convention enshrines the “right to freedom of thought, conscience and religion.”³⁰⁵ The CERD Committee has emphasized that freedom of religion and access to holy sites must be upheld equally for all groups.³⁰⁶ Nonetheless, U.S.- and Canadian-supplied weaponry and/or military aid have been used to enforce movement restrictions, police religious sites, and suppress access to holy places for Muslim and Christian Palestinians in the OPT, particularly in Gaza.
113. Gaza, home to some of the world’s oldest churches and mosques, has seen many of these historic sites damaged in the widespread destruction from Israel’s military offensive. Israeli forces have damaged or destroyed 195 heritage sites, including 227 mosques, three churches, and the Central Archives of Gaza, which conserved 150 years of history.³⁰⁷ On October 19, 2023, an Israeli air strike targeted an ancient Greek Orthodox church where hundreds of people sought shelter, killing 18 civilians and injuring at least 12 others.³⁰⁸ This church, St. Porphyrius, acted as a hallmark for the minority Christian population in Gaza.³⁰⁹ After an attack on December 4, 2023, Gaza’s historic Great Omari Mosque lay in ruins.³¹⁰ On December 16, 2023, two Christian women—a mother and her daughter—were shot and killed at the Holy Family Parish in central Gaza City’s Old City.³¹¹ Since October 7, 2023, this parish had served as a refuge for many Christian families.³¹²
114. Given the massive scale of U.S. military aid to Israel, it is reasonable to presume that U.S. military aid has facilitated Israeli attacks on cultural and religious sites.
115. The United States and Canada’s continuous export of arms to Israel violates Article 5(d)(vii) of the Convention because these arms are used to destroy religious sites, undermining Palestinians’ fundamental rights to thought, conscience, and religion. The U.S. and Canada bear direct extraterritorial responsibility as well as indirect responsibility for Israel’s violations.

³⁰⁵ ICERD, art. 5(d)(vii).

³⁰⁶ U.N. Doc. CERD/C/113/3/Add.2, *supra* note 277, ¶ 35-37.

³⁰⁷ OHCHR, *UN experts deeply concerned over ‘scholasticide’ in Gaza*, UN: PRESS RELEASE (Apr. 18, 2024), <https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>.

³⁰⁸ AMNESTY INTERNATIONAL, *Israel/OPT: ‘Nowhere safe in Gaza’: Unlawful Israeli strikes illustrate callous disregard for Palestinian lives* (Nov. 20, 2023), <https://www.amnesty.org/en/latest/news/2023/11/israel-opt-nowhere-safe-in-gaza-unlawful-israeli-strikes-illustrate-callous-disregard-for-palestinian-lives/>; Karen Zraick & Ameera Harouda, *Israeli Airstrike Hits Greek Orthodox Church Compound in Gaza City*, N. Y. TIMES: MIDDLE EAST CRISIS (Oct. 20, 2024, updated Dec. 21, 2023), <https://www.nytimes.com/2023/10/20/world/middleeast/israel-airstrike-gaza-city.html>.

³⁰⁹ See Reha Kansara & Ahmed Nour, *Israel-Gaza war: Counting the destruction of religious sites*, BBC (Jan. 29, 2024), <https://www.bbc.com/news/world-middle-east-67983018>.

³¹⁰ See Bora Erden, Graham Bowley & Tala Safie, *Gaza’s Historic Heart, Now in Ruins*, N. Y. TIMES (May 29, 2024), <https://www.nytimes.com/interactive/2024/05/28/arts/gaza-omari-mosque.html>.

³¹¹ See OHCHR, SIX-MONTH UPDATE REPORT ON THE HUMAN RIGHTS SITUATION IN GAZA: 1 NOVEMBER 2023 TO 30 APRIL 2024, at ¶ 27 (Nov. 8, 2024), <https://www.ohchr.org/en/documents/reports/six-month-update-report-human-rights-situation-gaza-1-november-2023-30-april-2024>.

³¹² See *id.*

i. Other Human Rights

116. The Convention places additional obligations on States including to condemn all propaganda or organizations that advance ideas of racial superiority and to not permit public authorities from promoting or inciting racial discrimination (Article 4), and guarantees other human rights, such as the right to equal treatment before tribunals (Article 5(a)), the right to marriage and choice of spouse (Article 5 (d)(iv)), and labor-related rights (Article 5(e)(i)). The United States and Canada have violated each of these articles by exporting arms to Israel.
117. The United States and Canada have violated their obligations under Article 4 to condemn, declare illegal and prohibit, and otherwise not permit public authorities to promote or incite racial discrimination when they each failed to condemn Israel for the statements by its highest officials of declaring Palestinians to be “human animals” for whom all basic necessities for life – food, fuel, electricity, water – would be denied, and instead furthered Israel’s campaign against Palestinians in Gaza by exporting arms and otherwise making weapons available to Israel soon after such statements were made.
118. The United States’ continuous export of arms also violates Article 5(a) of the Convention because U.S. aid is used to support a judicial system that effectively denies Palestinians equal access to justice and fair treatment under the law. The CERD Committee has expressed concern over the existence of two separate legal systems in the West Bank, whereby Jewish settlers are subject to Israeli civil law, which provides vastly different procedural protections, while Palestinians are subject to Israeli military law, which lacks many fair trial guarantees.³¹³ This dual legal system, imposed within the same territory solely on the basis of nationality or origin, has been deemed inherently discriminatory by the Human Rights Council, as it contradicts the principle of equality before the law.³¹⁴ At the same time, the United States is itself directly impairing Palestinians’ equal access to justice at the international level through a recent Executive Order by President Trump that imposes sanctions on the Prosecutor of the International Criminal Court and threatens to sanction the ICC, its officials and those supporting its efforts to hold Israel accountable for its violations of international human rights and humanitarian law.
119. The United States’ provision of aid and Canada’s military support to Israel violate Article 5(d)(iv) of the Convention because their aid supports, and exported weaponry enforces, restrictions on Palestinians’ right to marriage and choice of spouse. The CERD

³¹³ U.N. Doc. CERD/C/ISR/CO/14-16, *supra* note 220, at ¶ 27; U.N. Doc. CERD/C/ISR/CO/17-19, *supra* note 220, at ¶ 20.

³¹⁴ Human Rights Council, *Human rights situation in the Occupied Palestinian Territory, including East Jerusalem** Report of the Secretary-General, U.N. Doc. A/HRC/34/38, at ¶ 40 (Apr. 13, 2017).

Committee has expressed concern over Israel’s Citizenship and Entry into Israel Law (Temporary Provision), which restricts family reunification between Israeli citizens and their Palestinian spouses residing in the West Bank, Gaza Strip, or certain “enemy states.”³¹⁵ This law significantly impacts the ability of Palestinians to maintain family ties, discriminating based on ethnicity and nationality.³¹⁶

120. The United States and Canada’s continuous export of arms also violates Article 5(e)(i) of the Convention because these arms are used to enforce movement restrictions that prevent Palestinians from reaching their places of employment. The CERD Committee and the Committee on Economic, Social and Cultural Rights (CESCR) have expressed concerns about Israel’s limitations on Palestinian labor rights, citing the construction of the Wall, restrictive permit regimes, and the blockade on Gaza as barriers that prevent Palestinians from accessing agricultural lands, workplaces, and essential utilities.³¹⁷ The 2015 Human Rights Council resolution demanded Israel cease these closures and movement restrictions, which severely impact Palestinians’ access to employment opportunities.³¹⁸

VII. CONCLUSION

121. The United States and Canada have violated Articles 2, 3, 5(a), 5(d)(i-ii, iv, & vii), & 5(e)(i & iii-v) by their continuous exports of military aid and/or weaponry to Israel, as described in detail throughout this filing. The United States and Canada bear direct responsibility for each of these violations even though they may be occurring outside of the territory. Additionally, the United States and Canada have assisted Israel in violating Articles 2, 3, 5(a), 5(d)(i-ii, iv, & vii), & 5(e)(i & iii-v) through their exports and/or provision of aid, as described in detail throughout this filing. Finally, the United States and Canada bear indirect responsibility for each of Israel’s violations that the United States and Canada assisted as a result of their third state responsibility to not assist in violations of the ICERD.

VIII. RECOMMENDATIONS

122. To the United States Federal Government:

³¹⁵ U.N. Doc. CERD/C/ISR/CO/14-16, *supra* note 220, at ¶ 18; U.N. Doc. E/C.12/ISR/CO/3, *supra* note 242, at ¶ 20 (detailing the Temporary Order 5763-2003, as amended in 2005 and 2007).

³¹⁶ U.N. Doc. CERD/C/ISR/CO/14-16, *supra* note 220, at ¶ 18.

³¹⁷ U.N. Doc. CERD/C/ISR/CO/14-16, *supra* note 220, at ¶ 20; U.N. Doc. E/C.12/ISR/CO/3, *supra* note 242, at ¶ 12.

³¹⁸ U.N. Doc. A/HRC/RES/28/27, *supra* note 243, at ¶ 7.

a. Ensure compliance with its obligations under the Convention and other international human rights law by:

- Ending all military assistance and support to Israel, including prohibiting the sale, transfer, and export licensing of all U.S.-origin weapons to Israel.
- Enacting mandatory human rights due diligence (HRDD) laws and regulations for the arms sector;
- Taking all necessary measures to end complicity in Israeli atrocity crimes and Israeli authorities' commission of the crime of apartheid.
- Utilizing all available means to hold Israeli officials accountable for atrocity crimes perpetrated against Palestinians, including cooperation with other states and international justice mechanisms undertaking investigations and prosecutions into alleged atrocity crimes against Palestinians.
- Rescinding Executive Order 14203 sanctioning the International Criminal Court and its staff.
- Expressing public support for a permanent mutual ceasefire and the immediate release of all hostages, including Palestinian political prisoners and those held in administrative detention without charge.
- Retracting statements calling for an annexation of Gaza and refraining from taking further action to promote the forcible transfer of Palestinians from the occupied West Bank, including East Jerusalem, and Gaza.
- Urging Israel to withdraw its military from Gaza.
- Calling on Israel to end blockades interfering with Palestinians' access to, *inter alia*, medical care, food, clean water, and other necessities, as well as their freedom of movement and association.
- Lifting the freeze on funding to UNRWA.

123. To the Canadian Government:

a. Ensure compliance with its obligations under the Convention and other international human rights law by:

- Continuing the current suspension of new permits for arms exports directly to Israel;
- Canceling or suspending all active existing permits to export arms to Israel that have been issued but not yet utilized;
- Closing the current loophole for indirect arms exports to Israel by imposing export controls for all military exports to all countries, including the U.S., or, alternatively, controls on the reexport to a third country of Canadian military exports for which an individual export permit is not required;
- Enhancing transparency by publicly communicating information about risk assessments in export permit approval decisions;
- Introducing mandatory human rights due diligence (HRDD) legislation for the arms sector;
- Conducting a review of laws, regulations, and policies for Canadian arms exports to prohibit the transfer of arms to all other places where they may be used to commit human rights violations against persons with disabilities.

124. To both Governments:

- a. Engage in international cooperation to realize the aims of the Convention, including the provision of urgent humanitarian aid in sufficient quantities to Gaza and the acceptance of refugees from Gaza.
- b. Take all measures within their power to prevent the commission of all prohibited acts under the Genocide Convention, investigate alleged violations of the Genocide Convention as well as other grave violations of international humanitarian law and human rights, and ensure the utmost protection of civilians.
- c. Engage in international cooperation to advocate for and fund the rebuilding of essential services and infrastructure in Gaza to benefit Palestinians living in the territory, including, but not limited to, the health care system, education system, cultural and religious institutions, roads, housing, food and water supplies, and sanitation systems.
- d. Engage in international cooperation and promote equal access to and enjoyment of essential services and infrastructure for Palestinians and their equal access to justice and fair treatment under the law.

APPENDIX A

CEDAW Review of Canada - Transcript of Country Dialogue (Excerpt)

89th Session, Committee on the Elimination of Discrimination against Women
(CEDAW)

Full video available here: <https://webtv.un.org/en/asset/k10/k10pecn9gn>

Article 12

Rangita Da Silva de Alwis (Sri Lanka):

42:00: In closing, your Excellencies, I want to go back to where I started, with the Women, Peace, and Security Agenda and the [CEDAW's GR 30](#). Minister Joly has made the primacy of reproductive rights and health her priority, and Canada's moral leadership on global women's rights makes a difference in the world. We bear witness to conflict-related reproductive rights violations in many conflict-affected regions. This needs Canada's urgent attention. Pregnant women face food insecurity and other essential objects indispensable for women's survival. In 2019, [UN Security Council Resolution 2467](#) embraced a survivor-centric approach, and you have spoken about that in terms of your work in Canada. How would you include psycho-social support for survivors according to [2417 on food insecurity, 2475 on disability and conflict](#) and access to essential services.

*note: this question was not addressed in the immediate follow-up by the state party

Ms. Genoveva Tisheva (Bulgaria):

51:14: Thank you very much, Madam Chair. I would like to go further of the question of Mrs. Da Silva de Alwis and also to congratulate first the state party, the Government of Canada, for the progress made on this issue, for the example that it set, and also for the contribution to international law and justice concerning women's rights. My questions will be in light of the principles and objectives of the CEDAW convention, which are from the very beginning strengthening international peace and security, cooperation between states, but also general and complete disarmament, in particular nuclear disarmament and the strict and effective international control. And also it is affirmed as we all know by the [Beijing Platform for Action](#) section E, but also [Beijing Declaration](#), which is a resolution. So in that respect, **I would like that in parallel of the successes, of the achievements, that there is extensive information on the role of the state party for acts affecting human rights of women in Gaza, specifically their health and reproductive rights as a result of the arm trade and support of Canada to Israeli military forces since the end of 2023. Such actions include, in addition to random killing of pregnant women, but also violations of their reproductive rights, maternal, obstetric, and neonatal care they have the right to. Also attacks and displacement of pregnant women, destruction of infrastructure and health facilities, malnutrition of women and the newborn, lack of access to healthcare, violations of pregnant women's rights at all stages, including giving birth, neonatal care, premature birth, and also deaths of newborns. So my questions are how does Canada regulate**

corporations in its jurisdiction which contribute to human rights violation of women in Gaza through the arms trade, which makes the state party complicit to what has happened, to the actions that are made in Gaza to women? And also what are the steps for the country to refrain from continuing providing arms to the Israeli forces in the immediate future?

Government of Canada (Jennifer Keeling, Deputy Director, Human Rights and Freedoms Division, International Security and Political Affairs Branch, Global Affairs Canada):

[1:03:08](#): Thank you very much. So you've mentioned the feminist foreign policy and the feminist international assistance policy a few times, so I'll kind of skip over that, but to note that regarding sexual and reproductive health and rights, in June of 2019, Canada made a 10 year commitment to global health and rights. And this commitment was announced by the Prime Minister at the [Women Deliver Conference](#) which Canada hosted in Vancouver, BC. Through that 10-year commitment, Canada is providing an average of \$1.4 billion annually to support women's, children's, and adolescent's health around the world, of which \$700 million is allocated to comprehensive sexual and reproductive health and rights. Canada's sexual and reproductive health and right investment make a comprehensive approach with a specific focus on five key neglected or underfunded areas including family planning and contraception, safe abortion services and post abortion care, comprehensive sexuality education, advocacy, and the prevention and response to sexual and gender-based violence.

With respect to humanitarian assistance in conflict situations, in 2022 and 2023, Canada provided \$1.3 billion Canadian dollars in humanitarian assistance in line with Canada's gender equality and humanitarian action sub-policy. And gender equality considerations were integrated into approximately 99% of these humanitarian assistance projects, with the exception of funding for humanitarian logistics operations. This level of gender equality integration continues to be a priority for Canada in 2024. Under [Foundations for Peace, Canada's National Action Plan on Women, Peace and Security - 2023 to 2029](#), the Government of Canada is committed to promoting and supporting women's participation in decision making and ensuring that women are meaningfully included throughout humanitarian action.

[1:05:03](#): I'll turn quickly to the points about Israel and Gaza. And so **Canada has one of the strongest export control systems in the world. And the respect for human rights is enshrined in our legislation and it is a cornerstone of Canada's export controls regime. All export permits application for controlled items are reviewed on a case-by-case basis under Canada's robust risk assessment framework, including against the Arms Trade Treaty criteria, which are enshrined in Canada's Export and Import Permits Act. The Minister of Foreign Affairs will deny export permit applications if she determines that there is a substantial risk that the item could be used to commit or facilitate serious violations of international humanitarian law, international human rights law, or serious acts of gender-based violence or violence against women and children. Since January 8, 2024, the Government of Canada has not approved new export arms permits to Israel and this remains the government's approach. Taking into account the rapidly evolving situation on the ground, Canada suspended a number of export permits for military items destined to Israel during the summer.**

Article 13

Marion Bethel (Bahamas):

[1:11:51](#): And finally, I want to just look at two extraterritorial obligations of Canada that have been briefly mentioned. One is in regard to the deep sea bed mining and ask how does Canada hold deep sea bed mining companies accountable for environmental damage to oceans, marine life, which inevitably impacts negatively the lives and livelihoods of women in the Pacific region and violates their human rights under the Convention? And the issue of Gaza has already been mentioned and what I'd like to put forward here is that **alternate reports indicate that Canada engages in the indirect flow of military exports to Israel through the USA, even though it has suspended many of the permits and licenses to do so. But there is an indirect flow of military exports. What measures is Canada taking to ensure that arms sold to the US or other countries are not transferred to Israel and used in the violation of the rights of women and girls in Gaza?**

Government of Canada (GAC - Daniel Loutfi, First Secretary, Permanent Mission of Canada to the United Nations, Geneva):

[1:25:02](#): Thank you. So with respect to responsible business practice, I believe the question was specific to one sector, but I'm going to answer more generally because these issues arise in a number of sectors and Canada's approach is not sector specific, but takes a broader approach. Canada takes a balanced approach to responsible business conduct, which includes preventative measures, legislation in select areas, and access to remedy in the form of non-judicial dispute settlement mechanisms. Canada's approach to dispute resolution is founded on two mechanisms that reflect the objectives of both the [UN Guiding Principles on Business and Human Rights](#) and also the [OECD Guidelines for Multinational Enterprises on Responsible Business Conduct](#). Canada's approach aims in part at reducing barriers and providing victims of alleged business-related abuses, include women and historically marginalized groups, access to remedy mechanisms to address grievances. Canada has two non-judicial dispute resolution mechanisms. We have a [National Contact Point for Responsible Business Conduct](#) and there's an [Ombudsperson for Responsible Enterprise](#). So briefly the National Contact Point offers dispute resolution for a wide range of issues covered by the OECD Guidelines that includes employment-industrial relations, human rights, environment and bribery and the national contact point can facilitate dialogue or mediation to help resolve complaints involving multinational enterprises either operating in or from Canada. And that's in any sector. The Ombudsperson for Responsible Enterprises is mandated to review complaints regarding alleged human rights abuses arising from a Canadian company's operation abroad. And this is more specific to sector, so this is in the garment, mining, and oil and gas sectors. The Ombudsperson can also undertake a review on their own initiative.

Canadian companies who are involved in a dispute resolution process are expected to participate in good faith. If a company has not acted in good faith, the National Contact Point or the Ombudsperson can recommend implementing trade measures. And so these can include recommending the withdrawal of certain forms of trade promotion support that are otherwise offered by the Government of Canada, as well as the denial of future support from trade entities, such as Export and Development Canada, so that involves specific support that supports Canadian companies with exports abroad.

[1:27:18](#): With respect um to the follow-up question on Israel, um, you know, there uh... the... I believe that the... the aspects of our response that emphasized that no new arms export permits to Israel um have been um... focused on. I also want to reiterate that wherever the export permits are happen- ... wherever the exports are happening, even if they are through the US, all export permit applications of controlled items are reviewed on a case-by-case basis, including against Arms Trade Treaty criteria, which are enshrined in Canadian legislation. And again I'll just reiterate that the Minister of Foreign Affairs will deny export permit applications if she determines that there is a substantial risk that the item could be used to commit or facilitate serious violations of international humanitarian law, international human rights law, or serious acts of gender-based violence or violence against women and children.